FINAL ENVIRONMENTAL IMPACT STATEMENT

KENSINGTON WOODS

106 Hilton Road
Slingerlands, NY 12159

Town of New Scotland
Albany County
New York

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1. RESPONSE TO COMMENTS

This section addresses written comments received during the DEIS comment period, which was open from November 5, 2008 to January 12, 2009, as well as comments made at the Public Hearings held on December 3rd and 30th of 2008.

Comments have been grouped into subject categories and summarized, so that when applicable, a single response may address similar comments or questions raised more than once. Each comment has been given a number referenced in the left hand column of either the written comment letter or the public transcript. See FEIS Appendix [_L_] and [M_], for written comments and public hearing transcripts, respectively.

1.1. Transportation and Traffic

Comment 1.1.1. Do you have current data as to the change in traffic impact caused by the creation of the roundabout in the intersection of 85A and 155? [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.] It was requested in September for data to be provided regarding the change in traffic impact caused by the creation of the roundabout in the intersection of 85A and 155—I did not see this addressed in the DEIS. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: This intersection was excluded from the scope of the DEIS in recognition of the improvements made by the NYSDOT. Nonetheless, as indicated by comments of the public during the review of the Project, the intersection is functioning as expected and has capacity for existing and projected future growth in accordance with NYSDOT projections. (See Transcript from public hearing December 3, 2008).

Comment 1.1.2. Is the Traffic Study Appendix (p. 10) reference to a 1% growth rate a DoT calculation or yours? [Jo Ann Davies,

Board Member, submitted August 25, 2008, written comment.]

Response: A growth rate of 1% is an accepted standard rate used by the NYSDOT, and is consistent with CDTC estimates. The analysis provided by the Applicants consulting traffic engineers was developed in accordance with the standards developed by the Institute of Transportation Engineers. Moreover, as discussed in the DEIS, the Traffic Impact Study was updated in 2008 and the additional analysis demonstrated that the growth rate of 1% per year was confirmed and found to be consistent with the methodologies used to establish the baseline conditions.

Comment 1.1.3. Regarding the Traffic Study Appendix (pp. 17 – 18), please explain key points of level of service. [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.]

Response: As discussed in the Executive Summary and the Traffic Report, the level of service analysis can be summarized as follows:

- The level of service summary at the unsignalized Normanskill Road/Krumkill Road intersection indicates that the westbound Krumkill Road approach currently operates at LOS C during the AM and PM peak hours and will continue to operate at the same levels of service during No-Build conditions. With the additional traffic generated by the proposed development, the westbound Krumkill Road approach will degrade to a LOS D during the AM peak hour with an increase in delay of 9 seconds when compared to No-Build conditions and will remain a LOS C during the PM peak hour with an increase in delay of approximately 5 seconds. Although the westbound Krumkill Road approach will degrade to a LOS D during the AM peak hour, it is still recognized as an acceptable level of service for a peak hour based on NYSDOT criteria. It is noted that the average vehicle delay on the westbound approach will be less than 30 seconds during the peak hours. Vehicle delays during off peak periods are likely to be less. It is further noted that the magnitude of traffic volumes at this intersection do not meet the warrants for installation of a traffic signal. Hence, it recommended that the Town recognize NYSDOT's level of service criteria at this intersection.
- The level of service summary at the unsignalized NY Route 85A/Hilton Road intersection indicates that the southbound Hilton Road approach currently operates at a LOS C during the AM and PM peak hours and will continue to operate at the same levels of service

during No-Build conditions. After full build-out of the proposed development, the southbound Hilton Road approach will operate at a LOS D during the AM peak hour and a LOS C during the PM peak hour with an increase in average vehicle delay of approximately 8 seconds or less. Although the southbound Hilton Road approach will degrade to a LOS D during the AM peak hour, it is still recognized as an acceptable level of service for a peak hour based on NYSDOT criteria. It is noted that the increased delays is limited to the AM peak hour. Vehicle delays during off peak hours are likely to be less. The magnitude of traffic volumes at this intersection, do not meet the criteria for installation of a traffic signal. Hence, it recommended that the Town recognize NYSDOT's level of service criteria at this intersection.

- The level of service summary at the Route 85/Upper Font Grove Road/Mason Lane intersection indicates that the southbound Upper Font Grove Road approach currently operates at a LOS C during both peak hours and will continue to operate at the same levels of service during 2013 No-Build conditions. With the additional traffic from the proposed residential development, the southbound Upper Font Grove Road approach will operate at a LOS D/C during the AM and PM peak hours with an increase in average vehicle delay of approximately 2 seconds or less. Although the southbound Upper Font Grove Road approach will operate at a LOS D during the AM peak hour, average vehicle delays remain less than 30 seconds and the operation is still recognized as an acceptable level of service for a peak hour based on NYSDOT criteria. The magnitude of traffic volumes at this intersection do not warrant the installation of a traffic signal. Hence, it is recommended that the Town recognize NYSDOT's level of service criteria at this intersection.
- The level of service summary at the unsignalized Route 85/Font Grove Road intersection indicates that the southbound Font Grove Road approach will operate at a LOS E during the AM and PM peak hours during No-Build conditions and will continue to operate at the same levels of service after full build-out conditions. It is noted that the proposed development will not increase traffic on the southbound Font Grove Road approach since site access driveways are no longer proposed along this roadway and that the levels of service experienced during No-Build and Build conditions is primarily a result of high through volumes on Route 85.

As per the NYSDOT HDM, it may be necessary to accept a LOS E on individual lane groups due to unreasonable costs or impacts associated with improving levels of service. The only potential improvement that would mitigate the LOS E on the southbound Font Grove Road approach would be the installation of a traffic signal. However, the low side street volumes would not warrant the installation of a signal at this location based on NYSDOT criteria. In addition, the

installation of a traffic signal would unnecessarily impact delay to NY Route 85 traffic. Therefore, while it is noted that the southbound Font Grove Road approach will operate at a LOS E during No-Build and Build conditions, it is still recognized as an acceptable level of service for a peak hour based on NYSDOT criteria, and hence, it is recommended that the Town recognize this criteria.

- The level of service analysis indicates that the remaining unsignalized study area intersections at Krumkill Road/Hilton Road, Krumkill Road/Font Grove Road, and Upper Font Grove Road/Font Grove Road will operate at adequate levels of service after full build-out of the proposed residential development.
- The level of service analysis indicates that the signalized Route 155/Voorheesville Avenue/Normanskill Road intersection will continue to operate at adequate levels of service after full build-out of the proposed residential development.
- The level of service analysis indicates that the signalized Route 85/Route 85A intersection will operate at an overall LOS D/B during the AM and PM peak hours during No-Build conditions and will continue to operate at the same levels of service during Build conditions after development of the proposed Project. As this intersection is expected to operate with conditions less than a LOS C without the construction of this Project, it is not feasible to mitigate to a LOS C or better condition. It is noted that a malfunctioning detector on the southbound approach that created long delays has been corrected and that current timings are consistent with the traffic Signal and Phasing plan provided by NYSDOT.

It is also noted that the NYSDOT has indicated that this intersection has been identified as a potential location for the construction of a single-lane modern roundabout in the next 10 to 15 years. An assessment of a roundabout was conducted at this intersection for the 2013 No-Build and Build volume conditions and indicates that the NY Route 85/NY Route 85A intersection would operate at an overall LOS A during both peak hours as a single-lane roundabout with or without future traffic from the proposed residential development. Further analysis of the future conditions at this intersection would be conducted if the concept of a roundabout is progressed. It is noted that the traffic volumes generated by the proposed Project do not warrant geometric improvements such as the installation of a roundabout at this intersection.

- The level of service analysis indicates that the existing roundabout at the Krumkill Road/Schoolhouse Road intersection will continue to operate at good levels of service after full build-out of the proposed residential development.
- The level of service analysis indicates that the Site Access Road intersections on Hilton Road will operate at good levels of service as unsignalized intersections with single lane approaches separated by a

raised median.

- A qualitative intersection evaluation at the intersections of Route 85A with Route 155, Joslin Avenue, Voorheesville Avenue, and Route 156 located within the Village of Voorheesville indicates that the proposed residential development will not impact traffic operations after full build-out since only approximately 25% of the site generated traffic will travel through this area. The increase in traffic from the proposed Project will not impact the existing modern roundabout at the Route 155/Route 85A intersection.

Comment 1.1.4. Regarding the Traffic Study Appendix (pp. 24 – 27) signage, I would prefer the developer err on the side of caution and install signs. [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.]

Response: The Applicant has committed to install such signage as the Town and the Town Highway Superintendent request in conjunction with site improvements.

Comment 1.1.5. What about the visibility coming down [Font Grove] road? Sometimes the visibility, there is no line of sight there. [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 29.]; also coming down the other end of Hilton Road? [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 29.];

Response: The conditions at Font Grove Road will not be changed by the introduction of traffic from the Project. Nonetheless, site distance at the intersection can be improved by removal of vegetation nearest the travel lanes and in the Road Right of Way. With respect to Hilton Road, a sight distance evaluation was completed at the proposed site access roads. The results of the analysis were included in Appendix A of the Traffic Study as found in the DEIS, which indicates the following:

- Hilton Road/Site Access Road 1 (East) – The available intersection sight distance looking left and looking straight for vehicles making a left-turn into the site exceed the AASHTO guidelines for a 44-mph operating speed on Hilton Road. The available sight distance looking right for vehicles to make a left-turn exiting the site is less than AASHTO guidelines for the applicable operating speed due to existing vegetation on Hilton Road; however, it is not critically limited based on criteria found in the *Official Compilation of Codes, Rules, and Regulations for the State of New York* (NYCRR) and therefore

does not require the installation of an intersection warning sign.

- Hilton Road/Site Access Road 2 (East) – The available intersection sight distance looking left and looking straight for vehicles making a left-turn into the site exceed the AASHTO guidelines for a 44-mph operating speed on Hilton Road. The available sight distance looking right for vehicles to make a left-turn or a crossing maneuver exiting the site is less than AASHTO guidelines for the applicable operating speed due to existing trees and vegetation on Hilton Road. The available intersection sight distance looking right can be increased from 315-feet to over 600-feet, which will meet AASHTO guidelines, if the trees and vegetation located along the site frontage are cleared.
- Hilton Road/Site Access Road 2 (West) – The available intersection sight distance looking right for vehicles making a left-turn out of the site or a crossing maneuver and looking straight for vehicles making a left-turn into the site exceed the AASHTO guidelines for a 44-mph operating speed on Hilton Road. The available sight distance looking left for vehicles to make a left and right turn exiting the site is less than AASHTO guidelines for the applicable operating speed due to existing trees and vegetation on Hilton Road. The available intersection sight distance looking left can be increased from 200-feet to over 750-feet, which will meet AASHTO guidelines for the operating speed on Hilton Road, if the trees and vegetation located along the site frontage are cleared.

Additionally, the proposed site access roads will be designed with boulevard entrances providing a raised median separating entering and exiting vehicles. The separation of vehicles maintains emergency access to the site at each of the driveways in the event that traffic is blocked in one direction.

Comment 1.1.6. When you're on 85A there is a line of sight coming up over that hill. You don't know what's coming at you from 85 to the railroad crossing if you're on the project side. There is quite a knoll there. . . Not as a pedestrian. I'm talking about cars and adding traffic to that road. [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 30; Beth Stewart, Board Member, December 30, 2008 Public Hearing transcript, page 16.] I think that there needs to be a little more discussion with the town [about the railroad crossing]. I think that we would like to see a little more information possibly to be put in your report. [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, page 35.] On Hilton Road

at the railroad – I use Hilton Road a lot and I never go on 44. I like to go slower on that road because it's gorgeous. At that railroad crossing, it's like one of those moments where your life flashes before your eyes, actually when you go there. You just don't know if you're going to get over there without being hit. I hug the right, as someone already mentioned. [Marsha Carlson, December 3, 2008 Public Hearing transcript, page 64.] In our opinion, increased traffic on Hilton Road warrants further investigation at Hilton Road/railroad intersection with regards to highway safety. Generally speaking it is estimated that with the location of the two new entrance roadways to this project, there will be increased conflicts between vehicles at the railroad crossing. The Applicant was requested to at a minimum, provide the available sight distance (through presentation of road profile) of the roadway at the railroad to determine if deficiency actually exists compared to standards. This has not been completed or presented and needs to be done. Through phone conversations with the Applicant's Traffic Engineer, it was agreed that the Applicant shall work with the Town to determine the appropriate mitigation measures for this area due to the increase in traffic from this project. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.] About six or seven years ago, a town in Saratoga County, a town similar to ours, was hit with a verdict just short of four million dollars because of a roadway Smith Bridge Road, at least in my opinion, was a substantially better road than Hilton Road. We are taxpayers in this town and let's assume that there is a verdict in excess of the insurance policy. That comes out of each and every one of our pockets and that I don't think it's fair. The burden should be on the developers to build that entire road, if they're going to do it, they need to build it in accordance with the accepted standards that are set out by DOT, by the county, by the town, or by any agency that has jurisdiction over the construction and maintenance of roads. We are taxpayers in this town and let's assume that there is a verdict in excess of the insurance policy. That comes out of each and every one of our pockets and that I don't think it's fair. The burden should be on the developers to build that entire road, if they're going to do it, they need to build it in accordance with the accepted standards that are set out by DOT, by the county, by the town, or by any agency that has jurisdiction over the construction and maintenance of roads.

Several years ago, I almost had a bicyclist on the hood of my car. I've had joggers; I've had other cars because the road is totally inadequate. I cannot believe that someone could stand here and tell this audience and this board that this road is adequate. [Bill Cade, December 30, 2008 Public Hearing transcript, pages 30, 34-35.]

Response: Based on these comments and the request of the Town's consulting engineer, the Applicant has surveyed the existing conditions on Hilton Road at the railroad crossing and documented the existing stopping sight distance. The Applicant conducted a meeting with the ACDPW and the Town of New Scotland on January 8, 2009 to discuss this location. The ACDPW indicated it intended to make improvements to Hilton Road at the railroad crossing in conjunction with the work on the Bike Trail improvements. The road improvements would include dropping the elevation of the current railroad bed. To assist in this work, the Applicant has provided survey work to the ACDPW showing the existing road profiles. The Applicant further committed to make a lump sum contribution to the Town/County efforts for future improvements to Hilton Road in the amount to be determined. It should be further noted that the accident study did not identify any accidents at this location based on data available over the latest three year period.

Comment 1.1.7. Did you recommend in your report any advisory signs or some type of mitigation at the railroad crossing? You've got a curve and you've got a vertical and a horizontal curve there and we're looking to see if there were any recommendations or mitigation as far as advisory signs for speed or - I know you put something in there about cutting some vegetation. We haven't had the history of a rail accident here in over 150 years and yesterday, unfortunately, it happened. A gain, we're just looking at the recommendations that could be some type of mitigation at that point because you are going to be putting 167 homes on the other side and a portion of that traffic will be coming back at that intersection and a portion of that traffic will be coming in so that there will be more use of that Hilton Road area. [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, pages 31-33.]

Response: The Applicant has agreed to provide signage as recommended by the Town Highway Superintendent.

Additionally, the Applicant met with representatives of the ACDPW, Town Highway Superintendent, Town Engineer and other Town representatives on January 8, 2009 to discuss the future bike trail crossing over Hilton Road. The Applicant has provided background information to the County as requested and will coordinate with the County for development of its plan for the Bike Trail and associated Bike Trail Park within the Project. Improvements to Hilton Road at the intersection with the Bike Trail will be accomplished as part of the County Bike Trail Project. The Applicant has committed to contribute a sum of money, the amount to be determined, toward these and any Town desired future improvements along Hilton Road. The Applicant has also committed to work with the Town to seek a reduction in the speed limit on Hilton Road.

Comment 1.1.8. Where did you put your traffic control devices for counting purposes in relationship just to the railroad intersection on Hilton Road? Do you know roughly where you had placed your traffic control devices? I mean, I know that here was one down at the intersection of 85A . . . My point is did you put them out near the railroad so that you can show the speed of the cars coming down that road and the impact of the speed of the cars going over that hump there? [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, pages 37-38.] An ATR was installed on Hilton Road in the vicinity of the old at-grade railroad crossing. The ATR data sheet(s) for this location was not included in the report. The Applicant should identify the location, by description and figure, for which the ATR was placed and provide the ATR data sheet(s). [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: A figure identifying the location of the ATR's along Hilton Road has been prepared and the ATR data sheets are attached as Appendix K1.

Comment 1.1.9. On the other end- who lives in Jim Finnegan's old brown house? It's very narrow there and there is a hill there as well. You'd have to hug the side of the road. There's no line of sight of someone coming up because they have to come up and over the hill. . . You don't have those houses here, either adding to the pattern. That's my concern. I'm sure that people are not going to flying down - people fly down that road now. We're adding not a lot of traffic, but

we are certainly adding some to that road. I think that it needs to be addressed. [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 37.]

Response: The traffic analysis reviewed the existing conditions on Hilton Road, including road configuration and accident history, and found that the existing conditions in the area commentor referenced do not warrant improvements based upon existing volumes, history showing no related accidents and the limited number of additional trips added by the Project at Peak times. (Transcript from DEIS Hearing, December 3, 2008 pp 30-40).

Comment 1.1.10. In response to concerns raised by residents in December 2007 with regard to the speed on Hilton Road, the Town in coordination with Albany County requested that the speed limit along Hilton Road be reduced. In response to this request, the NYSDOT conducted a study and determined that a reduction of the 40 mph speed limit is not warranted based on conditions experienced along Hilton Road. Specific to the increase in traffic along Hilton Road generated by the Project, the Applicant shall repetition the Town/NYSDOT to review the speed limit. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: The Applicant has committed to work with the Town to petition the NYSDOT to review the speed limit along Hilton Road upon occupancy of the site.

Comment 1.1.11. If the Town determines sidewalks are not feasible along Hilton Road, it should strongly consider lowering the speed limit on this roadway to 30 mph and seriously examine the potential to re-stripe the travel lanes to 10 feet to provide some shoulder width for pedestrians. In addition, lowering the speed limit along Hilton Road should be considered as this could have a positive safety effect with respect to the trail crossing. [David P. Jukins, Deputy Director, Capital District Transportation Committee, dated January 13, 2009, written comment.]

Response: The Applicant has committed to cooperate with the Town in a request to the NYSDOT to reduce the speed limit on Hilton Road and has committed to make the contribution discussed above towards future Town and/or County improvements along Hilton Road.

Comment 1.1.12. The sight distance/road width/lack of pedestrian walking area, etc. near the rail trail crossing are of great concern. The placing of 'bump' signs is not adequate to address the concerns (p. 40). [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: See responses to 1.1.6, 1.1.7, and 1.1.8 above.

Comment 1.1.13. As shown in the TIS, 124 am and 162 pm peak hour trips will be added to the network, all of which will occur via Hilton Road. This is an increase of approximately 50% and 80% of the volumes along Hilton Road during the peak periods. In addition, the 2006 average daily traffic volume along Hilton Road as presented in the Traffic Study is approximately 1,360 vpd. Using the same ITE Land Use Codes of 210, Single Family Detached Housing and Land Use Code 230, Residential Condominium/Townhouse as those used in the study, Stantec estimated that an additional 1,455 vpd of traffic could be added to Hilton Road for a future daily volume of 2,815 vpd. Hilton Road currently meets the minimum travel way widths as outlined in AASHTO's A Policy on Geometric Design of Highways and Streets, for a rural local road with an existing volume of 1,360 vpd. However, to accommodate the increase in daily traffic as a result of this Project, Hilton Road should be widened to meet minimum roadway widths as outlined in AASHTO. The Applicant is shall to engage the Town in further discussions regarding roadway conditions along Hilton Road and the mitigation measures of those impacts. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: In reference to AASHTO's A Policy on Geometric Design of Highways and Streets, and in particular Exhibit 5-5 (which is presumed to be the reference), the Applicant concurs with Stantec that Hilton Road currently "*meets the minimum travel way widths*". The Applicant also concurs with Stantec's projected traffic volumes. Referencing the same AASHTO Exhibit 5-5 and referring to the accident analysis as presented within the DEIS, it is noted that Hilton Road still "meets the minimum travel way widths" as Footnote c allows for the continued use of the existing 22 foot traveled way with the increased traffic volumes. The further discussions requested by commenter have been

conducted in conjunction with discussions with Albany County and are ongoing.

Comment 1.1.14. While it is agreed that today there is little or no pedestrian and bicyclist activity along Hilton Road, the future will dictate that there will be such activity with the addition of this project. The Applicant has not addressed providing pedestrian and bicyclist accommodations along Hilton Road. Such accommodations would encourage other modes of transportation and provide a connection to the existing bus stop at Hilton/Route 85A and the future rail trail.

It is our understanding that the County has made some progress on the Rails-to-trails program proposed for the former D&H rail line. We recommend the Applicant interview the County and report back any information that may provide insight to the Project and the anticipated treatment at the Hilton Road crossing. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: The Project proposes inclusion of a Bike Trail Park in conjunction with the County's Bike Trail, allowing public access to the trail consistent with the long term plans of the County. These plans have been discussed at length with the County and coordination with the County efforts will continue. To the extent further improvements are desired by the Town, the Applicant has committed to make the contribution discussed in response to comment 1.1.6 above for such future Town and/or County improvements

Comment 1.1.15. The Helderberg Hudson rail trail is being progressed. The need to provide a safe trail crossing with Hilton Road should be integrated into the design of the proposed subdivision's site driveways as needed. [David P. Jukins, Deputy Director, Capital District Transportation Committee, dated January 13, 2009, written comment.]

Response: See Response to Comment 1.1.12 above.

Comment 1.1.16. Section IV.E [of the DEIS] discussed a sight distance analysis as it pertains to a pedestrian at the rail crossing and provides the results in Table 4.7. The Applicant should discuss the methodology used for preparing this sight distance analysis and provide figures supporting the

analysis. The Applicant is directed to work with the County and Town to address potential mitigation issues related to the future bike trail at this location. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: Within the DEIS, the Applicant documented the available sight distance for motorists to identify a pedestrian at this potential future crossing in order to confirm there would be adequate time for the vehicle to stop and avoid a collision. As the crossing is located on the crest of the Hilton Road hill, available sight lines are good with the exception of the southwest corner. This condition will be addressed when the County undertakes the improvement planned in conjunction with the Bike Trail; the work will be assisted by the contribution made by the Applicant herein. A figure has been included to help visualize and document this analysis. See also responses to 1.1.6, 1.1.7 and 1.1.8 above.

Comment 1.1.17. While not seen as needed at this point in time because of low pedestrian traffic, the inclusion of bike paths and walkways along Hilton Road will be needed due to the increased populations this development would cause (p. 9). [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: See responses to 1.1.6, 1.1.7 and 1.1.8 above.

Comment 1.1.18. The inclusion of sidewalks on one side of the individual streets within the development is a safety concern. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: No sidewalks along roadways are considered necessary for the purpose of pedestrian traffic safety concerns due to the low volume of traffic and speeds of vehicles within the Project. Additional mitigation for this concern is provided as a result of the road configuration design, providing adequate views in all areas for pedestrian traffic integration with the vehicular flow. The Project will include walking trails throughout the common greenspace areas for the benefit and safety of its residents. See also response 1.1.6 above.

Comment 1.1.19. The transportation assessment and proposed mitigation measures, while acknowledging other travel modes (i.e. public transit, pedestrians and bicycles) and their relationship to the overall transport system, does not seem to provide for their sufficient accommodation. Existing and future demand for pedestrian and bicycle facilities that provide access to/from the proposed subdivision to other areas of the Town and larger transportation system will not be adequately accommodated by the proposed design.

We recommend that during the subsequent review process for the proposed subdivision the Town require this development to provide safe, convenient pedestrian and bicycle access to Route 85A. The statement in the DEIS that transit usage from the proposed development would not be significant is a subjective one. There is a bus stop ¼ mile to the site; therefore every effort to provide pedestrian accommodations should be made. The DEIS also states that sidewalks are not feasible along Hilton Road but provides no information demonstrating why. The DEIS also states that there are no pedestrian accommodations anywhere in the project area except at the 155/85A roundabout. This fact should not deter the Town from working toward creating a safe, convenient pedestrian network in the Town especially in an area in close proximity to existing public transit and the village center. [David P. Jukins, Deputy Director, Capital District Transportation Committee, dated January 13, 2009, written comment.]

Response: The Applicant has provided adequate pedestrian access throughout the Project site and has designed the Project to integrate with the County's development of the Future Bike Trail. The installation of sidewalks outside the Project area is beyond the scope or control of the Project and Project Applicant and may be matters that the Town may wish to address at some future date, independent of this Project. The contribution made by the Applicant may be used for this purpose. See also responses to 1.1.6 above.

Comment 1.1.20. You don't see the accident history of all the deer that have been hit in front of that first house there [on Hilton Road?]. . . a lot of accidents don't get reported. [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, page 34.]

Response: The traffic report includes a discussion of all reported animal related vehicle accidents. Based on the NYSDOT accident records, a majority of the accidents occurring on the studied roadways and intersections involved collisions with fixed objects and animals due to the rural characteristics of the area, driver error and inattention. No accident related mitigation is warranted for the Project. It is noted, that overall there was one fewer accident on the study area roadways and intersections when compared to the accident data information provided by the NYSDOT from June 1999 to May 2002 indicating that accident frequency has remained consistent in the Project vicinity. (See DEIS Executive Summary pages 26-27)

Comment 1.1.21. To put it into perspective, this would be half of the impact that you would have coming out of Sunny Hill Road from the Salem Hills Project, because Salem Hills is about 230 units, I believe. . . It was about 230 units over there and this is going to be about half, give or take. That would be half the impact. [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, page 37.]

Response: Comment noted, no response required.

Comment 1.1.22. With 169 units, we can count on at least 338 cars in the development. I think that with the number of houses that you're going to have two or three cars per house. Adult empty nesters are still working- and they'll be working longer- and most households have 2 working spouses, you're going to have more cars than the reports indicate all exiting out onto Hilton Road and I submit that the traffic numbers are calculated wrongly. Hilton Road, as you know, is one little lane that just empties out onto Krumkill and to 85A. So you're going to have all those cars exiting and they're going to go to those two other roads. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment; presented at December 3, 2008 Public Hearing, December 3, 2008 Public Hearing transcript, page 62.]

Response: All projected traffic volumes were developed based on data provided by the *Trip Generation* 7th Edition, published by the Institute of Traffic Engineers (ITE), an accepted industry standard, which has been endorsed by the Town's consulting engineers.

Comment 1.1.23. Connectivity is what makes a community. The design of Kensington Woods is isolationist. I think that this development would be more attractive if at some future date a commercial district was developed, there could be some sort of road that leads from the development to the commercial district. Therefore, they wouldn't have to come out to Hilton Road and go out onto 85A. They could just go from the development directly into the commercial district. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment; presented at December 3, 2008 Public Hearing, December 3, 2008 Public Hearing transcript, page 62.]

Response: Kensington Woods was developed to include the creation of 169 residential units with the preservation of 82.7 acres of open space. The proposed residential units vary in size and type to provide housing diversity while promoting open space preservation and protection. The proposed open space areas include the preservation of the rural character of the existing carriage ways, lands to be dedicated to the Town for future active Bike Trail Park and the protection of existing water features, wetlands and environmentally sensitive areas. The proposed residential lots and active/passive open space amenities are proposed to link to one another through the interior design elements of the Project where appropriate.

This Project is intended to blend with those existing uses by providing a microcosm of the broader surrounding community, with its differing housing types and differing densities of development, essentially surrounded by the on site open space. The Project provides an option for residential uses with efficient utilizations of the land, simultaneously providing water and sewer to insure that the surrounding ground water and surface water environments will not be adversely impacted by the Project.

Development of the Project as proposed is intended to afford an efficiency of land utilization, without overburdening the land or infrastructure that would not be possible through strict adherence to the other sections of the Zoning Code, although consistent with the sprit of the Cluster provision of the Zoning Code. Development of the land in the fashion proposed provides needed housing options in the Town, but prevents unnecessary loss of green space beyond the Project, preserving the other rural areas of the Town, preventing residential sprawl indicative of a conventional layout and addressing the needs for water

resources in the immediate area. The interior road network is designed to accommodate connections to future development of adjacent parcels should the town desire to promote such connections. It will additionally include walking trails through the Project for the use of residents and anticipates the inclusion of a park to afford access to the County Rail to Trail route along the southern boundary of the Project.

Comment 1.1.24. There is no access to any commercial district. If there were then that would relieve traffic off Krumkill Road and 85A. [Edie Abrams, December 30, 2008 Public Hearing transcript, page 18.]

Response: The design of the interior road system supports the potential for future connections to adjacent parcels should the Town wish to move in that direction when future proposals are considered. See also Response to Comment 1.1.23 above.

Comment 1.1.25. Looking to the possibility of future development—Hazelwood/Fairleigh/Tipperary and Belfield should allow for pedestrian and/or vehicle connectivity to future development of neighboring parcels; this could be a condition similar to that given the Stewart's project on Route 85. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The Project has been designed to offer opportunities for future connectivity to adjacent parcels where not limited by topography or existing uses, especially on the eastern side of the Project, where such goal is most practically accomplished.

Comment 1.1.26. When Stewart's was approved, Mr. Stapf stipulated that when the Town asked for sidewalks, Stewart's would have them put in. The same could be done with Kensington Woods. Until we know what the commercial district will look like, the developer need not construct a "road to nowhere." Instead, the developer ought to leave enough room for a future roadway, and with the approval of the project, a stipulation should be made to connect Kensington Woods to the commercial district. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment.]

Response: See Response to Comment 1.1.23 above.

Comment 1.1.27. The methodology used in preparing the Traffic Impact Study including trip generation, trip distribution, trip assignment, and background growth, and level of service analysis are consistent with standard industry practice. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: Comment noted, no response required.

Comment 1.1.28. The design year's (2013) traffic volumes on the adjacent roadway network were obtained using a 1% per year background growth rate applied to the 2007 existing traffic counts. This rate is reasonable and consistent with CDTC estimates and the NYSDOT Report for this area. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: Comment noted, no response required.

Comment 1.1.29. Based on current projects ongoing in the Krumkill Road corridor and adjacent to the Normanskill, the Applicant should provide a discussion on the impact that this project would have to the roadway system if Krumkill Road east of Font Grove Road were closed to traffic. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: It is well established that the DEIS should address only those potential adverse significant environmental impacts that can be reasonably anticipated as part of the Project impacts for what was, at the time of project proposal, a reasonably foreseeable scenario. The requested information is beyond the scope of the Scoping for the DEIS, and the requirements for a DEIS, and it is further speculative and not a subject required to be addressed herein.

Comment 1.1.30. According to Highway Superintendent Duncan, an existing deficiency appears present at the intersection with Hilton Road and Route 85A. The turning radii appear to be too small for existing traffic movements to be made without vehicles encroaching into oncoming lanes. It is perceived

that the condition will be significantly worsened by the additional traffic anticipated by the project. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment; Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: The additional traffic generated by this Project will be predominantly passenger vehicles that are not affected by this existing condition. To the extent the Town is interested in improvement at the referenced intersection, the contribution pledged by the Applicant as set forth in response 1.1.6 above may be used for this purpose.

Comment 1.1.31. The degradation of traffic to Level D should not be accepted by the Town and should be addressed with mitigation. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 26.]

Response: All new intersections created by the Project should operate at a LOS C or better after development of the Project while any existing intersections which are found to be potentially impacted by traffic from the development shall be mitigated to ensure that levels of service for such existing intersections after development shall operate at substantially the same as the levels of service that would be anticipated without the Project. Therefore, the intersection and safety improvements recommended at the existing intersections are consistent with the site's obligation to minimize the adverse impacts of the proposed development. In addition, the recommended geometry and intersection control at the proposed site access roads will allow these intersections to operate at a level of service B or better on all approaches. This analysis has been found to be acceptable by the Town's consulting engineer and by the NYSDOT per the Agency's correspondence of January 7, 2009.

Comment 1.1.32. The design with these cul-de-sacs is a very outdated design. Nobody makes designs like this anymore. Even the army when it's redoing its bases is no longer doing designs with

cul-de-sacs. [Edie Abrams, December 3, 2008 Public Hearing transcript, page 17.]

[Turnarounds and Cul-de-Sacs, source: Massachusetts Low Impact Development] Many residential streets end in large cul-de-sacs up to 80 feet across, which generate large amounts of runoff during storms. Alternative designs can reduce runoff and improve neighborhood character, while still providing sufficient room for fire trucks and school buses to maneuver.

[Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment.]

Response: See Response to Comment 1.1.23 above.

Comment 1.1.33. I'm interested in 85A and I'm not good with numbers but there is a table 4.2Q summary [in the DEIS] and it says that by 2013 there's going to be in the morning a doubling of the number of cars, as I read it, and in the evening a tripling of the number of cars. Now that we know how many units are going to be in the Colonie County Club Development and the Carrow Senior Housing Development, instead of looking at this development, I think that we need to start looking at proposed developments that are under consideration at the same time holistically so that we get a better picture of the impact and how much traffic is going to be around this area. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment; presented at December 3, 2008 Public Hearing, December 3, 2008 Public Hearing transcript, pages 20-21.] The developer should include the impact of proposed projects such as the Colonie Country Club project on the traffic. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 26.]

Response: The design year's (2013) traffic volumes on the adjacent roadway network were obtained using a 1% per year background growth rate applied to the 2007 existing traffic counts. This rate is reasonable and consistent with CDTC estimates and the NYSDOT Report for this area and takes into consideration additional Projects such as the Colonie Country Club Development and Carrow Senior Housing Development.

Comment 1.1.34. While this project, and it's forecast future traffic volumes, will not significantly impact surrounding roadways in and of itself, the cumulative impact of recent and future development in the Town adding traffic most notably to Rte 85, should be examined and a plan for mitigation developed in consultation and cooperation with neighboring municipalities and the NYSDOT, and should consider, among other potential measures, changes in land use controls to limit the amount of single occupant vehicle traffic and truck traffic produced. [David P. Jukins, Deputy Director, Capital District Transportation Committee, dated January 13, 2009, written comment.]

Response: The Project incorporates projected future growth of traffic volumes, beyond just this Project, as reflected in the DEIS traffic analysis. Such analysis substantially reviews such cumulative impacts and future growth volumes, all of which is consistent with, not only the NYDOT standards and the CDTC standards, but the anecdotal evidence that was developed in the update of the Traffic Study prepared during the review of this Project. The other recommendations of the Commenter are noted, but are beyond the scope of this Project review.

Comment 1.1.35. I had a Chevy blazer about five feet from my front porch [at 32 Hilton Road]. The road can't handle it. That's the only house there and all this is going to go behind my house? Yes, we have had two vehicles in our front yard actually going up over those tracks. [Carla Wakely, December 30, 2008 Public Hearing transcript, pages 32-33.]

Response: This unfortunate accident has been considered in the review of the traffic analysis of this Project. At indicated in Response to Comment 1.1.12 and other response to comments herein, the Applicant has met with the Town and County representatives to review the conditions on Hilton Road and to coordinate with the County for future improvements at the intersection of Hilton Road and the County Bike Trail. Additionally, the Applicant has committed to contribute funds to the County's effort to improve that intersection when improvements for the Bike Trail proceed.

Comment 1.1.36. If the town wants to fast forward to see what that corridor will look like, go back and look at Fisher Boulevard. Look

at Fisher Boulevard the way it was 10 years ago, and look at what it is now. [Bill Cade, December 30, 2008 Public Hearing transcript, page 34.]

Response: Comment noted, no response required.

Comment 1.1.37. On the other side of Hilton Road, Kensington Woods should be connected to the housing development that is closer to Voorheesville. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment.]

Response: The Applicant does not have access to the lands described by commenter. Moreover, review of the interior road design confirms that the roads, especially as designed with the boulevard entrances, are adequate for the Project traffic.

Comment 1.1.38. This is no doubt going to strain the Town of New Scotland. The roads that you've mentioned cannot handle even a fraction of what you're considering. [T.R. Laz, December 30, 2008 Public Hearing transcript, page 37.]

Response: The Applicant has proposed the following forms of mitigation to address the impacts on traffic that may be generated by the Project. In addition to the following, the Applicant is coordinating with the Town and County to address the existing conditions on Hilton Road in anticipation of the County's development of the Bike trail intersecting Hilton Road:

1. Intersection Capacity Analysis. Intersection level of service and capacity analysis evaluations conducted for the existing, no build, and build conditions are summarized in Table VI-A-1 of the DEIS and in Appendix A. The following improvements and proposed intersection geometry are recommended based on the level of service analysis.

- Site Access Road 1 should provide a single lane entering and exiting with a stop-sign installed on the westbound Site Access Road 1 approach.
- Site Access Road 2 should provide a single lane entering and exiting with a stop-sign installed on the eastbound and westbound Site Access Road 2 approaches.

2. Geometric and Highway Safety Issues.

- Hilton Road/Site Access Road 1 (East) – It is recommended that the trees and vegetation be cleared to the extent possible within the Town right-of-way since they are located on the adjacent property to maximize the available intersection sight distance looking right.

- Hilton Road/Site Access Road 2 (East) – It is recommended that the Applicant remove the trees and vegetation along the site frontage to maximize the available intersection sight distance looking right and meet the AASHTO guideline.
- Hilton Road/Site Access Road 2 (West) – It is recommended that the Applicant remove the trees and vegetation along the site frontage to maximize the available intersection sight distance looking left and meet the AASHTO guideline.
- Install an intersection warning sign on the southbound Font Grove Road approach to Upper Font Grove Road to warn drivers of the limited sight distance at the existing intersection.
- Install a "BUMP" sign on the northbound and southbound approaches to the abandoned, at-grade railroad crossing on Hilton Road to provide drivers with advance warning of the vertical curve.

Comment 1.1.39. The New York State Department of Transportation has reviewed the DEIS. We find the DEIS and the traffic impact study adequately addresses the transportation issues and have no specific comments. It should be noted that a NYSDOT highway Work Permit will be required for any access drives, intersection improvements, or other work within the state highway right-of-way. [Robert S. Cherry, P.E., Director of Transportation Planning, dated January 7, 2009, written comment.]

Response: Comment noted, no response required.

Comment 1.1.40. Although many of the comments result in statements to the effect that items are not a concern at this time, the increased pedestrian and vehicular traffic generated by this development needs to be addressed in the traffic study findings. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The Traffic Study has addressed the impacts of both vehicular traffic and pedestrian traffic from the Project, from the perspective of on-site traffic impacts, to potential impacts to adjacent roadways. The recommendations for mitigation of those impacts are outlined in the Executive Summary and the Conclusions of the Traffic Study (See DEIS Executive Summary pp136-137; and See full Traffic Study, Appendix A to the DEIS) see also response 1.1.38 above)

Comment 1.1.41. Consider widening (tapering) the traffic lanes into and out of the intersections on Hilton Road and 85A to allow cars

to move over approximately 70 feet prior to the intersection as part of the turning process into and out of the development. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The mitigation measures recommended for the Project include those outlined in response 1.1.38. See also responses 1.1.6 and 1.1.30.

Comment 1.1.42. Mr. Genovesi is also concerned about increased traffic along Font Grove Road. The DEIS essentially dismisses this issue by stating that because there will be no direct access points from Kensington Woods to Font Grove Road, the Project is not expected to add to the volume of traffic on that road. Anyone familiar with that area knows that residents of Kensington Woods will use Font Grove Rod as a shortcut to New Scotland Road to get to Bethlehem, Delmar and the Route 85 bypass area to Albany including the nearby Tech Park. [Justin C. Brusgul, Esq., dated January 12, 2009, written comment.]

Response: The Traffic Study reviewed the potential impacts on Font Grove Road and concluded, based upon standard analytical methodologies, that this section of road would not be adversely impacted by the Project traffic. (See Executive Summary DEIS pp71-79 and Full Traffic Study Appendix A). This conclusion is reached by the analysis of current Levels of Service, projected future Levels of Service, with and without the Project, and review of accident histories.

Comment 1.1.43. Convenient, safe access to transit will be a selling point of this development for some potential buyers. [David P. Jukins, Deputy Director, Capital District Transportation Committee, dated January 13, 2009, written comment.]

Response: Comment noted, no response required.

1.2. Water Supply/Groundwater Resources

Comment 1.2.1. I have concerns over the "attractive nuisance" of the proposed tank and efficiency (pressure v. gravity feed). [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.] I am concerned over the 'attractive nuisance' of the proposed stilted water tower and its

efficiency. Would prefer to see a pillar water tower with an enclosed area for piping, etc. and a globe tank—easier to maintain, less subject to the elements, etc. Also the issue of pressure vs. gravity feed. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The water tank is located in a discrete area of the Project, with no road access except for the Project's Edinburg Court roadway which is a private cul de sac with luxury single family detached Carriage homes. And although it is not an apparent feature, the vicinity of the water tank is generally visible from the surrounding area, discouraging visits by persons not residing in the area. Moreover, there are no public roadways or other residences located anywhere near the proposed tank location. In addition, the Applicant will be providing a chain linked security fence around the entire perimeter of the proposed elevated tank location.

Both the stilt and pillar/pedestal style water tanks are constructed of steel, and as a result, routine maintenance is required for both style tanks. The primary purpose for the tank is to provide water storage for fire flow demands. Given the limited visibility of the water tank the significantly higher cost and aesthetical benefits of a pillar/pedestal water tank cannot be justified when the purpose is met with a conventional stilt style tank.

The pressure and gravity flow alternatives associated with different tank styles for water storage and distribution have been discussed with the ACDOH and the Town Engineer. Both systems are viable alternatives to provide domestic and fire flow protection to the population served. During the site plan review phase of the Project the construction, operation and maintenance costs of the alternatives will be evaluated by the Applicants and the Town to determine the most feasible method of storage and distribution for the water supply system.

Comment 1.2.2. Water Supply- Well Head Protection- Is the 200' radius for Zone A a NYS standard? How was this distance determined? [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.]

Response: This zone has been established using the fixed radial distance method, to match the NYSDOH established requirement for protective ownership surrounding the wellhead and the minimal drawdown method. The fixed

radius method established by the NYSDOH requires 200 feet of ownership surrounding each production well.

Comment 1.2.3. The well head protection program has been significantly expanded, following discussions between Alpha and VanVliet, LLC. The revised well head protection program includes an expanded Zone B (Zone of Influence) area, with detailed and appropriate land use restrictions for that zone. [Kevin J. Phelan, Hydrogeologist, Alpha Geoscience, dated October 29, 2008, written comment.]

Response: Comment noted, no response required.

Comment 1.2.4. The basis of calculations for water demand have been provided in the Water Supply/District Report. The demands for water system have been revised since the earlier version of the DEIS. The average daily demand for residential service has increased to 35.5 gallons per minute, up from 35.4 gpm. The maximum daily demand is 70.0 gpm, up from 58.4 gpm, and the maximum hourly demand is 141.5 gpm, up from 88.5 gpm. Models of predicted drawdown for constant pumping for 180 days, assuming no recharge to the aquifer, were prepared for the average daily demand rate, the maximum daily demand rate, and a conservative rate of 120 gpm. These models predicted minimal drawdown for these pumping scenarios. [Kevin J. Phelan, Hydrogeologist, Alpha Geoscience, dated October 29, 2008, written comment.]

Response: Comment noted, no response required.

Comment 1.2.5. The Water Supply/District Report should list the Town of New Scotland contract for the proposed water district as New Scotland Highway Superintendent, Darrell Duncan, rather than the chairman of the town's Water Advisory Committee. [Kevin J. Phelan, Hydrogeologist, Alpha Geoscience, dated October 29, 2008, written comment.]

Response: Comment noted, the report will be revised in accordance with the request.

Comment 1.2.6. The project will need to obtain a Water Supply Permit, approved by the New York State Department of Environmental Conservation and the need for this permit should be listed on pages 21-22 of 164 in Section III-Proposed Action of the Revised DEIS. [Kevin J. Phelan,

Hydrogeologist, Alpha Geoscience, dated October 29, 2008, written comment.]

Response: The Applicant is aware of this requirement and has already reviewed the permit requirements with the NYSDEC. The DEIS includes recognition of this requirement.

Comment 1.2.7. During the draw down phase, were you monitoring the northern water district? [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, page 20.]

Response: The Northern Water District was monitored during the drawdown tests. Based on the impact analysis performed during the hydrogeologic evaluation there should be no significant or noticeable drawdown impacts beyond the Project boundaries. The cycling of the wells at the Northeast Water District resulted in almost immeasurable drawdown at monitoring well MW-103, located approximately 275 feet from both NEWD wells 1 and 2. The cycling of the wells resulted in 0.04 feet of influence at monitoring well MW-103. No measurable influence from the Northeast Water District wells was recorded at any other monitoring well. The potential impact after 180 days of continuous pumping of production well KW-1 at 120 gpm will be less than 0.28 feet at the NEWD well field, the nearest wells to the proposed Project. Natural seasonal fluctuations in the water table will be more noticeable that the potential impact from production well KW-1. Therefore, the use of the proposed well field at Kensington Woods should not interrupt, or reduce the yield of any well within the Project area.

Comment 1.2.8. Was there any iron bacteria? [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 21.]

Response: The results of the iron sampling indicate that the aquifer in and around the proposed well field does not contain iron or iron bacteria in the ground water above the NYS Part 5 water quality standard. Low levels of iron that meet the Part 5 requirements were identified at observation well OW-1 and at the NEWD. Based on the data the use of production well KW-1 should not create any increase in iron concentrations within the aquifer and will not draw iron to the proposed wells (See Sections V.B.5.b) and V.B.6.). Iron levels at production well KW-1 may increase

slightly to those levels identified within the surrounding aquifer, but based on the observed data should not approach or exceed the Part 5 standard.

Comment 1.2.9. Which way would the water flow? [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 22.

Response: The Voorheesville Delta Complex is recharged by two primary sources. The aquifer is recharged by direct precipitation falling on the unconsolidated sand and gravel formation and from Vly Creek. The aquifer may also be recharged to a limited extent by underlying formations, where the sand and gravel is in direct contact with lacustrine sand deposits.

Direct precipitation recharge is from rain and snow falling on the surface of the sand and gravel deltaic deposits and run-off from precipitation falling on the adjacent glacial till drumlins. The recharge area for direct precipitation is large and contributes a significant amount of recharge to the aquifer system (see Figure B-2). The sand and gravel aquifer is also recharged from the Vly Creek. The Vly Creek aquifer recharge takes place over the total length of the creek when it is in contact with the sand and gravel deposits.

Production well KW-1 is not recharged directly by Vly Creek, but is pulling water from storage within the aquifer. Recharge from direct precipitation and Vly Creek is simply replacing water in the aquifer lost from storage.

Comment 1.2.10. So your recharge- it's going to the north? [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, pages 22-23.]

Response: Groundwater withdrawal from the proposed Kensington Woods Project site should have no impact on the aquifer beyond the Project boundaries and specifically to Vly Creek or to areas to the north of Vly Creek. As shown by comparing Plate B-3 and Plates B-7a, B-7b or B-7c in the DEIS Hydrogeologic Evaluation, the groundwater contours near Vly Creek do not change between static groundwater conditions and those after 180 days of continuous pumping at 120, 70.9 and/or 35.5 gpm. No water level change in Vly Creek attributable to the pumping test was identified

during the pumping test. The cone of depression will not extend to the north of Vly Creek and actually will not extend to any measurable degree to Vly Creek. The pumping test data indicated that while Vly Creek contributes to the recharge of the aquifer, Vly Creek does not directly recharge the production well. Water is released to the well from storage within the aquifer. The water from Vly Creek then replaces the water lost from storage within the aquifer. The pumping test data indicates that the Kensington Woods well field will not have any impact on the aquifer beyond the Project boundaries, on Vly Creek or the area north of Vly Creek.

Comment 1.2.11. Any salt [in the well]? . . . I'm trying to remember the presentation I heard it in, but the people that are on anti-hypertension medication? [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 23.]

Response: The NYSDOT Voorheesville Facility stored salt in outside piles for many years, which resulted in a significant ground water contamination plume of salt. The NYSDOT corrected this problem by constructing a state of the art salt storage facility at the Voorheesville Facility to prevent further salt contamination of the aquifer. Since that time the salt plume has been dissipating by natural conditions. The cone of depression will not extend to this area and will not contribute to the significant movement of groundwater from the salt contaminated zone. The source of the salt contamination has been eliminated and the salt plume should be naturally dissipating over time. Based on the shallow cone of depression no movement of the salt plume will be induced by the Kensington Woods well field. Therefore, the salt plume will not have any impact on groundwater withdrawal on the Kensington Woods Project site.

Comment 1.2.12. Years ago, I had an option to purchase Tall Timbers. I had a man by the name of Tom Webber who has his master's degree from RPI and a hydrologist who handles the Sacandaga reservoir do a test study. The tests revealed that there is a salt plum in that aquifer. [Bill Cade, December 30, 2008 Public Hearing transcript, page 30.]

Response: See Response to Comment 1.2.11 above. In addition, note that Production well KW-1 was installed in accordance with current NYSDOH and ACDOH requirements. A 72

hour constant rate pumping test was performed and evaluated in accordance with Appendix 5-D of the NYSDOH Part 5 criteria. Water Quality was evaluated by performing a complete Part 5 water quality analysis. A detailed description of the well installation, pumping test evaluation and water quality testing is provided in the DEIS Hydrogeologic Evaluation report. Based on the water quality samples there does not appear to be any impacts to the groundwater resource from conditions or operations at the site and surrounding area.

Comment 1.2.13. What is at the well itself? What is the depth to ground water? [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, page 25.]

Response: The water table in the study area is approximately 10 feet below present surface elevation, with the exception of the low lying areas adjacent to Vly Creek. Table B-1 shows the depth to water or static water table and groundwater elevation at various observation wells on site. Sporadic measurements taken since 1987 indicate a maximum variation in groundwater elevation of 4.65 feet. The static groundwater elevation on August 2, 2004 is shown on Plate B-3 of the DEIS Hydrogeologic Evaluation Report. As shown on Plate B-3, the water table is relatively flat throughout most of the area of the site near the production well. The water table throughout most of the site within the area of the production well ranges in elevation from 295 to 297 feet. The water table then slopes from an elevation of 295 feet down to an elevation of 288.79 to 291.50 in the area of Vly Creek.

Comment 1.2.14. How will fertilizers affect the recharge? [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 25.]

Response: New York State utilizes the aquifer boundaries as the fundamental baseline for delineation of wellhead protection. Zones are then used within the total wellhead protection area (WHPA) for varying management relative to potential risks. In this case, the aquifer boundary is located along the drumlin east of the proposed Kensington Woods well field. As a conservative measure, wellhead protection has been extended onto the drumlin area to account for potential run-off. The WHPA has been broken down into two parts or zones. The wellhead protection

zones are shown on Plate B-8 of the DEIS Hydrogeologic Evaluation Report.. Zone A, the Zone of Influence, will be owned by the proposed water district and will be controlled to prevent any use, which could cause well field contamination. No further land use restrictions will be needed by the Town of New Scotland.

Zone B-1 is the Zone of Contribution or Well Field Management Area not located directly over the aquifer. According to the New York State wellhead protection criteria, the aquifer boundary is considered the extent of any wellhead protection area; however, as a conservative measure, wellhead protection has been extended onto the drumlin area to account for potential run-off. The following use restrictions are proposed to minimize the chance for potential contaminants to impact the well field.

- No underground petroleum or chemical tanks of any type will be allowed within Zone B-1.
- Any dwellings or structures utilizing above ground storage of petroleum or chemicals in tanks exceeding 5 gallons in size will be required to have secondary containment, capable of holding at least 110% of the capacity or the tank.
- No floor drains that discharge to the subsurface will be allowed. Any floor drains, including basement sumps must discharge directly to the sanitary or storm sewer.
- No disposal of hazardous waste or materials is allowed within Zone B-1. This includes household chemicals, paints, cleansers, etc.
- No landfills, salt storage facilities, junk yards, snow disposal areas, sanitary sewage disposal pits or lagoons, gasoline stations, vehicle repair shops, manufacturing facilities, sanitary septic systems or other commercial ventures that may contribute to the potential degradation of the aquifer will be allowed within Zone B-1.

Zone B-2 is the Zone of Contribution or Well Field Management Area located directly over the aquifer. The following use restrictions are proposed to minimize the chance for potential contaminants to impact the well field.

- No underground petroleum or chemical tanks of any type will be allowed within Zone B-1.
- Any dwellings or structures utilizing above ground storage of petroleum or chemicals in tanks exceeding 5 gallons in

size will be required to have secondary containment, capable of holding at least 110% of the capacity or the tank.

- No floor drains that discharge to the subsurface will be allowed. Any floor drains, including basement sumps must discharge directly to the sanitary or storm sewer.
- Only low toxicity pesticides and/or herbicides will be allowed to be applied to lawns within the Zone B-2 area. The lawn care firm hired by the HOA will be required to comply with the use of these products. Only corn gluten based weed control products, such as PrEmerge® will be used for general weed control. The use of any non-corn gluten based product will require approval of the Town Board. Milky Spore, Dylox® and similar natural or short half-life products will be allowed for the control of grubs and lawn insects. Milky spore is a natural bacterium that affects only grubs. Dylox® and similar products have a half-life of only a few days. Any products not referenced above will need approval of the Town Board.
- No disposal of hazardous waste or materials is allowed within Zone B-2. This includes household chemicals, paints, cleansers, etc.
- No landfills, salt storage facilities, junk yards, snow disposal areas, sanitary sewage disposal pits or lagoons, gasoline stations, vehicle repair shops, manufacturing facilities, sanitary septic systems or other commercial ventures that may contribute to the potential degradation of the aquifer will be allowed within Zone B-2.

Comment 1.2.15. What is the full capacity of the well system? What additional on site equipment/costs will be necessary to expand the system to serve a wider area? [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, pages 21-22.]

Response: The pumping test evaluation was performed at a constant discharge rate of 430 gpm, which exceeds the demands of the proposed Project by a significant margin. Very little drawdown was observed during the constant rate pumping test at a pumping rate of 430 gpm. A total drawdown of 3.98 feet was observed at production well KW-1 at the conclusion of the pumping test. The available drawdown at the time of the test was approximately 28 feet. Very little drawdown was measured at the observation wells. A total

drawdown of 1.41 feet was measured at close observation well OW-3, located 8.29 feet from production well KW-1. A summary of the maximum drawdown observed at each observation well at the conclusion of the pumping test is shown on Table B-3 in the hydrogeologic evaluation (See Appendix B). Aquifer predictions at a constant rate of 430 gpm for 180 days were performed. The results are summarized in Table B-7 in the Hydrogeologic Evaluation (See Appendix B). A more thorough evaluation would be necessary once the actual average and peak demands of Hilton Road, Font Grove Road, the Route 155 corridor and Orchard Park properties are obtained, (an investigation not required for this Project) however the pumping test analysis does indicate the proposed well field should have more than sufficient capacity to supply water services to those additional properties.

Comment 1.2.16. What provisions have been made in the piping design such that large enough water mains are brought to the edge of the property such that the town will not need to replace or modify any piping on the site in order to expand the system? So that they don't have to go back onsite and the water mains are too small. We had that happen on 85 with the sewer system. You can't add to the system. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 22.]

Response: This is an issue the Applicant will discuss with the Town and Planning Board during the Subdivision and Site Plan review of the Project, but it does not relate to the impacts of the Project. Nonetheless, it is recognized that the development of the infrastructure for the Project will provide the Town with an important and valuable resource for future use.

Comment 1.2.17. Determine potential locations for connections to the water main for future development (also for sewer lines) and plan for accordingly. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: There are no future connections contemplated at this time, although the Applicant has agreed to extend the lines to the edge of the Project property to afford future connections. Should the Town determine that it wishes to provide for

such connections in the future, it may do so upon dedication of the facilities to the Town.

Comment 1.2.18. Why wasn't water offered to adjacent land owners who have water problems? [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 22.]

Response: The Applicant has agreed to extend the infrastructure for water lines to the boundary of its property to afford potential future extensions of the water system to adjacent properties.

Comment 1.2.19. Were area residents with active wells notified when the pumping tests occurred to determine whether there was any impact on their wells? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: Only 2 out of 12 wells known on Hilton Road are situated in areas that may be within the same aquifer as the Project – the Voorheesville aquifer. The remaining 10 wells do not overlie the Voorheesville aquifer. All wells on the east side of Hilton Road and most on the west side of Hilton Road overlie surficial deposits consisting of glacial till and/or lacustrine silt and clay.

The DiBona residence at 107 Hilton Road, on the west side of Hilton Road has a drilled well 135 feet in depth with a yield of 5 gpm. No other information is known at this time. The DiBona property is approximately 1700 feet from production well KW-1. The Aquifer map (Figure 2) indicates that the DiBona well is separated from the main aquifer by the till drumlin located directly east of the proposed Kensington Woods well field. Even if the well was within the main aquifer, due to the distance there would be no influence on the well from production well KW-1. Based on the distance and the separation from the main aquifer, there should be no influence on the DiBona well from the use of the proposed Kensington Woods well field.

The large estate at the northwestern intersection of Hilton and Krumkill Roads (Abelman and Slabom), has a high capacity screened well in a confined aquifer installed beneath silt and clay. HVV personnel were involved in the

installation and testing of this well in the late 1980's during the same time period as the original EHC work on the Kensington Woods site. This well is in a separate aquifer, completely isolated from the Voorheesville aquifer by a thick sequence of slit and clay. This well is located approximately 2,000 feet from the proposed Kensington Woods well field. Based on distance and the fact the Abelman/Slabom well is in a confined aquifer, indicate that no impacts to the Abelman/Slabom well will occur from the use of the proposed Kensington Woods well field.

The remaining properties on Hilton Road are underlain by glacial till and/or lacustrine silt and clay. According to well survey information, at least 5 of the remaining wells are dug wells within the glacial till and one is a drilled well, installed into the shale bedrock. It is most likely that the remaining wells on Hilton Road are installed into the shale bedrock and are of similar construction to those on Font Gove Road (i.e. typically 160-300 feet in depth). All wells on Hilton Road are at least 1700 feet from the proposed Kensington Woods well field. All wells installed within the glacial till, lacustrine silt and clay and/or shale bedrock will have no hydrogeologic connection to the Voorheesville aquifer. Due to the distance and geologic differences none of the wells on Hilton Road will be impacted by the use of the proposed Kensington Woods well field.

Consequently, these property owners were not expressly notified when the pumping tests were conducted.

Comment 1.2.20. The DEIS says that the Kensington Woods development "is not expected to promote further growth . . . particularly with respect to the potential impact from the creation of additional water and sewer facilities." This idea that the water is only for this project; that is a very disingenuous statement because we know even though they might provide infrastructure just to this project, we know that this project has enough water for lots more. Everyone knows that the Town is counting on a development on this property to expand water into the Commercial District and probably to surrounding housing developments or houses, too. The full potential of the amount of water should be tested for and recorded to help the Town with its future planning. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment; presented

at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 61.]

Response: See Responses to Comments 1.2.15 and 1.2.16 above.

Comment 1.2.21. The report states that the railroad lines are considered to have minimal impact on the water quality of the aquifer. Soil contamination from the railroad was not examined and could pose a danger to the residents of the project, as in the past, railroads sprayed herbicides, pesticides and oil products on and surrounding the rail bed and railroad ties were treated with creosote. Oil and petroleum leaks from locomotives may also have occurred. Albany County is currently in the 300-day due diligence period during which environmental assessments on the rail bed will be conducted for the rail to trail project. That data should be referenced in the EIS and any indications or the potential indications of toxins or oil spills in the vicinity of the project should be assessed by the developer for potential contamination. It may not affect the aquifer, but you are going to have children living here and if there are any contaminates in the soil, I think that needs to be addressed. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 28.]

Response: The adjacent railroad properties were considered and examined in the DEIS. The railroad lines are considered to be a minimal concern to the water quality of the aquifer. The rail line is currently owned by Canadian Pacific Railway, but is inactive. The rail line is approximately 700 feet southwest of the proposed Kensington Woods well field. Historically, railroads used herbicides to keep the rail line clear of vegetation. The cone of depression predicted at 700 feet from the well is 0.28 feet. The minimal cone of depression at a distance of 700 feet from the well should not create any significant groundwater movement toward the well. No evidence of herbicides was detected in the multiple water quality samples collected during this Project. Based on the hydrogeologic data, no impacts to production well KW-1 are anticipated from the railroad line.

Comment 1.2.22. If you look at the topography, you will see that the pesticides from the lawns, the salt from the highways and the run-off from the roofs will head right down to that

water aquifer. That, to me, could very easily become toxic. I lived in the Town of Bethlehem for number of years and raised trout and salmon, which I still do. In Fisher Hollow and the other development, they changed the topography and unfortunately, it polluted the four ponds that I had and that's a major reason why I chose to move over to Hilton Road. I have a licensed hatchery there and raise trout and salmon. I put the town on notice years ago that should this development impede the hatchery, that not only will the developers be parties to an action, but the town will be a party to the action. [Bill Cade, December 30, 2008 Public Hearing transcript, page 30.]; That's scary. It's very wet back there. You are going to mess with the aquifer. If I had the money, I'd try to buy it. I'm not a lawyer, or an engineer, or a doctor. I don't do the research. I just live there. [Carla Wakely, December 30, 2008 Public Hearing transcript, page 33.]

Response: See Responses to Comments 1.2.11 and 1.2.14 above. As discussed in the DEIS, a Well Head Protection Program will be implemented. The purpose of establishing wellhead protection zones is to protect the wellhead area from potential contaminants, which could impact the water quality from the proposed well field. The goal of establishing wellhead protection zones is to prevent such contamination of the ground water by managing the land use surrounding the production wells. Restrictions will be placed on certain areas of the proposed Project including residential lots. The establishment of wellhead protection zones will protect the aquifer for the future and will have no significant adverse impacts to the Project and/or surrounding area.

Comment 1.2.23. I am concerned regarding the use of any pesticides/fertilizers, etc. in the Town Passive Open Space Area in which the well head and water tower are located. Would prefer the open space area as well as the town home (TT 1 – 22) and carriage (C 1 – 46) lot areas be designated a chemical free area for maintenance. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: See Response to Comment 1.2.14 above.

Comment 1.2.24. Financial Impact of the water system should be clarified. Upon successful construction and dedication to Town of

infrastructure, the water system will be operated by the Town. Build-out of the residences will likely take several years. During build-out, the revenues generated from water use will vary. In theory, water bills are generated to pay for operation and maintenance of the water system and are generated by the water bill. Some costs associated with O&M are fixed (say staff, permits and testing) while some costs are proportionate to water production (say chlorine and electricity).

Stantec recommends that a more detailed financial strategy be developed and presented in the EIS to ensure that during the build-out phase, costs are accounted for and kept within acceptable user rates for the homes that are occupied. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: It is contemplated that the Applicant will setup of a Transportation Corporation to operate the water system for a period of time until a critical mass of homes within the project have been built – it is proposed that the Transportation Corporation own and operate the water system until the earlier of the expiration of two years or when 50 homes (excluding model homes) in the Project have received permanent Certificates of Occupancy; at which time the system will be dedicated to the Town at no cost. The Transportation Corporation will be formed to only provide services to the residents of Kensington Woods at no expense to the Town. The Corporation will receive revenue to cover a portion of the cost to operate the system via user fees charged to the residents. The fees charged will be similar to fees that will be charged by the Town once the system is dedicated and the Water District is created. A full analysis of the costs of operation and maintenance of the water system will be provided during site plan review and upon application for the formation of the Transportation Corporation.

Comment 1.2.25. To ensure continuous service when the primary power has been interrupted, a power supply shall be provided from at least two independent sources or a standby or an auxiliary source shall be provided. It is presumed that electrical power is not available from two independent sources. Therefore, a backup generator shall be provided to meet the average day demands. DEIS documents should be modified

accordingly. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: To ensure continuous service when the primary power is interrupted, a backup generator will be provided. The details of the size and configuration of the backup generator will be provided during the site plan design phase of the Project.

Comment 1.2.26. Include a backup generator system as an alternate power source. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: See response to Comment 1.2.25 above.

Comment 1.2.27. Highway Superintendent Duncan has expressed concerns regarding ability to enforce lawn care restrictions in wellhead protection zone. In particular, the ability to regulate the application of lawn chemicals is of highest concern. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: A Homeowners' Association will be established which will be solely responsible for the care and maintenance of the lawn care of the residences and any common areas in the vicinity of the wellhead protection zone. Annual reports demonstrating compliance with the Wellhead Protection Zone Program requirements will be prepared by the HOA and submitted to the Town. See also Response to Comment 1.2.14 above.

Comment 1.2.28. No current Town Law regulates lawn sprinkling from the municipal source. According to the Applicant, lawn irrigation is proposed and could have significant demand on the system. Stantec recommends the Town begin the process of developing this portion of the Water Law. The amendment to the Law should be engaged as a regulating step as opposed to a prohibiting action. Applicant is encouraged to identify Town action of modifying local water law as necessary to ensuring successful operation of water system. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: Substantial portions of the site will be maintained by the Homeowners' Association to be established for the Project The HOA will coordinate with the Town to establish protocols for regulating the use of water for lawn maintenance.

Comment 1.2.29. Highway Superintendent Duncan has requested provisions to facilitate future connection of Kensington Woods Water System to Northeast Water System. Town recognizes this as potential long-term objective for the Town and not the financial responsibility of the KWCD project. Applicant should identify locations for probable future connection (including easements/access provisions). [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: The Applicant will work with the Town and the Highway Superintendent to identify appropriate locations for future connections during the Site Plan review process.

Comment 1.2.30. ToNS does not always require copper pipe for connecting to water taps. Would plastic piping suffice for this project? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: All structures within the Project will be built in compliance with applicable Building and Fire Codes.

Comment 1.2.31. All water meters should be compatible with the remote read system now being phased in for each water district. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: All structures within the Project will be developed in accordance with the applicable requirements of the Town and Utility Providers.

Comment 1.2.32. Need to determine if additional hardware/software is required to support the addition of 169 units to the remote read system and include in the financial calculations. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: It is not anticipated that additional equipment would be required.

Comment 1.2.33. Water system costs should include training of ToNS personnel and the cost of safety clothing and equipment needed to operate the plant. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The costs of training personnel to operate the water system will be included in the overall budget for the water district and will be borne solely by the users within the water district.

Comment 1.2.34. The 10 States Standards report requires that all water units within 200 feet of a sewer plant must be shown—is there such a drawing included? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The Site Plan shows that there are no water units within 200 feet of the Wastewater Treatment Plant.

Comment 1.2.35. Mr. Genovesi is concerned that the water quality will suffer from the effluent discharged into the stream. The DEIS notes that the water quality of the streams and tributaries will be impacted by the discharges from the storm water systems and WWTP. The study fails to take into consideration that the Genovesi family has several wells on their lands that are supplied by the stream that will bear the pollution. [Justin C. Brusgul, Esq., dated January 12, 2009, written comment.]

Response: As reflected in the discussion in the DEIS, the WWTP effluent will meet NYSDEC limits and includes tertiary treatment, UV disinfection and Post Aeration, providing a high quality effluent. The flow entering the tributary is a relatively small percentage of the total stream flow. It is not expected to have an adverse impact on the stream quality for any use, including nearby by residential potable well water.

Comment 1.2.36. The well head protection is our main issue. Zone B-2 has a provision about environmentally friendly lawn applications. I will have to insist this also applies to Zone B-1. How will this be enforced? Otherwise acceptable. [Thomas J. Brady, Assistant Director on behalf of Marcia M. Lenehan, M.S., Director, Division of Environmental Health Services, County of Albany Department of Health, dated January 13, 2009, written comment.]

Response: The Well Head Protection Plan will be incorporated into the rules and regulations of the Homeowners' Association, which Association shall have sole responsibility for the maintenance of the lands within the Well head protection Zone that are not to be dedicated to the Town. A report demonstrating compliance with the Plan will be filed annually with the Town by the HOA.

Comment 1.2.37. With respect to Vly Creek, the report dances around the well pumping drawing water from the creek. I will have to be further convinced that the well is not impacted by creek water. This issue should be addressed in the DEIS. From an ecological perspective, it would be nice to see what percent of the creek's flow will be withdrawn by the well. [Thomas J. Brady, Assistant Director on behalf of Marcia M. Lenehan, M.S., Director, Division of Environmental Health Services, County of Albany Department of Health, dated January 13, 2009, written comment.]

Response: Groundwater withdrawal from the proposed Kensington Woods Project site should have no impact on the aquifer beyond the Project boundaries and specifically to Vly Creek or to areas to the north of Vly Creek. As shown by comparing Plate B-3 and Plates B-7a, B-7b or B-7c in the Hydrogeologic Evaluation, the groundwater contours near Vly Creek do not change between static groundwater conditions and those after 180 days of continuous pumping at 120, 70.9 and/or 35.5 gpm. No water level change in Vly Creek attributable to the pumping test was identified during the pumping test. The cone of depression will not extend to the north of Vly Creek and actually will not extend to any measurable degree to Vly Creek. The pumping test data indicated that while Vly Creek contributes to the recharge of the aquifer, Vly Creek does not directly recharge the production well. Water is released to the well from storage within the aquifer. The water from Vly Creek then replaces the water lost from storage within the aquifer. The pumping test data indicates that the Kensington Woods well field will not have any impact on the aquifer beyond the Project boundaries, on Vly Creek or the area north of Vly Creek. The Vly Creek is located approximately 1000 feet to the north of the proposed Kensington Woods well field. A portion of the recharge to the aquifer will come from Vly Creek. Based on the pumping test data, the water produced by the proposed well field is being released from storage and is not directly being

recharged from Vly Creek. Vly Creek will be recharging the aquifer by replacing water lost from storage. The cone of depression will not actually intersect Vly Creek and no drawdown will occur at the creek. No noticeable or measurable groundwater movement from Vly Creek will be induced by the pumping. No impacts from Vly Creek to the proposed groundwater supply source are indicated by the hydrogeologic data. (See also DEIS Appendix B, Parts 1,2&3).

1.3. Wastewater Treatment/Surface Water Quality

Comment 1.3.1. Would the Applicant consider including the two additional properties shown on Font Grove Road as part of the contributing area for sewer? [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.] Consideration should be given to including the two adjacent properties shown on Font Grove Road as part of the contributing area for sewer (appendix F, Figure 3). [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The properties on Font Grove Road are at a lower elevation than the wastewater treatment plant, which is designed to access flows by gravity feed, something that would not be possible with these properties. Moreover, the Applicant does not have legal access from its property to Font Grove Road. Consequently, such connections are not feasible.

Comment 1.3.2. Design Standards (Appendix A, letter of 9/19/07) require a separation of 500'. Your proposed site location map shows only a separation of 400' from public roadways and residences. I have a concern regarding odor and visibility. [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.]

Response: Odor issues are not expected to be a problem at the WWTP. The RBC process maintains an aerobic condition which reduces the odors associated with wastewater treatment. The RBC, primary clarifier, final clarifier, tertiary filtration, and disinfection will be housed within the WWTP building. This will help reduce nuisance odors by controlling the ventilation of the facility. The final clarifier will pump sludge back to the primary clarifier. An approved sludge hauler will remove the sludge blanket in

the primary clarifier regularly to maintain treatment operation and reduce odors. The headworks, post aeration basin, and EQ basin will be located outside of the WWTP building. Odors associated with the headworks will be controlled by providing a cover/access hatch. The hatch will provide access to the bar screens which will be cleaned regularly. Material cleaned from the bar screen will be containerized and removed from the facility by an approved waste hauler. The post aeration basin will raise the dissolved oxygen level in the treated wastewater. The treated wastewater is not expected to cause nuisance odors. The EQ basin will balance the flow of influent into the plant. The influent in the EQ basin will be pumped at a constant rate into the plant to prevent odors associated with standing wastewater. The "Design Standards for Wastewater Treatment Works 1988" requires a 400-foot separation distance for the placement of RBC process tanks and dwellings or other publicly used areas. The WWTP location meets this requirement. This separation distance allows for dissipation of WWTP odors to prevent nuisance odors in the surrounding areas.

Comment 1.3.3. Does this RBC plant include a cover to minimize odorous conditions? The 10 State report also states "...enclosures may also be of value in preserving treatment efficiency in the northern or colder portions of New York." I am also concerned over the ability of access the enclosed area of the plant should there be a breakdown in the system- will there be a removable cover? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The Wastewater Treatment Plant design was chosen after consultation with the ACDOH and the Town's Consulting Engineers to address requirements for efficient and effective treatment, ease of future maintenance and ease of operation, as well as minimization of adverse conditions such as odors.

Comment 1.3.4. What are the advantages of what you have proposed for SWM (tertiary filter) vs. sequential batch treatment? Which uses smaller footprint? Less personnel to manage? Has greater efficiency (show data for this size facility)? What is anticipated cost to operate to ToNS? [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.]; Why were only a limited number of methods of wastewater treatment considered? I do consider

the system that they picked to be a pretty good system, but there are increasingly new technologies being offered in wastewater treatment. Did the developer explore membrane filtration system? Were constructed wetlands considered (constructed wetlands can have significantly lower operating costs)? Some of these systems have significantly low maintenance costs. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, pages 22-23.]

Response: Several process alternatives have been evaluated for the WWTP including: Activated Sludge, Sequencing Batch Reactor (SBR), Rotating Biological Contactor (RBC) and Trickling Filter Systems. After looking into these common types of treatment plants it was decided that a RBC system would be best suited for this application. The compact design allows for a small plant footprint. The setup of the tanks and process equipment has been laid out to aid in future expansion of the WWTP.

Comment 1.3.5. The system will become the property of the Town of New Scotland so the Town should evaluate the equipment in the same way it does for equipment directly purchased with tax dollars. The wastewater treatment vendor should provide names and contact information for owners of the same system that has been operation for at least 3 years and data showing actual operating costs from at least 3 installations. Other communities with the same system should be questioned about maintenance costs and any system problems such as odors and discharges above permitted levels. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 23.]

Response: The wastewater treatment plant is designed to be functionally efficient, allowing ease of maintenance, thereby affording low future maintenance costs. The building's exterior will use earth tone colored maintenance-free finishes that will be in harmony with the proposed homes. The location of the proposed treatment building is far removed from adjoining properties, town roadways and from the proposed Kensington Woods home sites. Moreover, the proposed wastewater treatment system is a typical wastewater treatment method outlined in the NYSDEC and Ten States Standards as an acceptable

method of treatment for wastewater. Wastewater treatment plants similar to the proposed rotating biological contactor system are utilized in many locations within and surrounding Albany County. Many of these systems have been operating for decades. The details of the proposed wastewater treatment plant will be developed during the preliminary design and site plan phase of the Project. The determination of specific equipment and the identification of similar plants in other communities for the Towns review can be made during that phase. The design of the wastewater treatment plant as currently proposed meets the necessary separation distances and water quality limits required by the NYSDEC and ACDOH.

Comment 1.3.6. Provide a list of New York State communities/contacts that have implemented the RBC process. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: Please refer to comment response 1.3.5

Comment 1.3.7. The Town's capabilities for wastewater operation and maintenance is currently limited to the Heldervale Sewer District. The Heldervale system is a low-pressure sewer system, limited to collection system piping. New Scotland currently does not operate any sewage treatment facility, gravity collection system or sewer pump stations. Concerns are raised by Town staff as to initial startup costs associated with purchasing equipment necessary to operate and maintain the Kensington Woods system. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: It is not anticipated that the Town will need to acquire any specialized equipment to operate and maintain the Project system once it is dedicated to the Town.

Comment 1.3.8. Contract operator assumed in annual O&M estimate. Town should have name of potential operator to confirm estimate of manpower, fees etc. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: If the Project is approved for development, the Applicant will work with the Town to identify an appropriate operator for the wastewater system and all estimates for manpower and fees will be reviewed with the Town. It is anticipated

that the system will initially be operated by a Transportation corporation, which entity will be responsible for hiring qualified personnel for operation and maintenance.

Comment 1.3.9. Will all operating and replacement costs be borne strictly by those that benefit from the water and wastewater systems? [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 24.]

Response: All operating and replacement costs associated with the water and wastewater systems will be born by the property owners within the respective water and sewer districts which will be formed in conjunction with the Project.

Comment 1.3.10. Financial Impact of the wastewater system should be clarified. Upon successful construction and dedication to Town of New Scotland of the infrastructure, the wastewater system will be operated by the Town. Build-out of the residences will likely take several years. Similar to the water system, several operation and maintenance costs will be fixed, regardless of the number of users connected to the system (say staff, permits and testing). Also similar, some costs are proportionate to wastewater flow rates.

Stantec recommends that a more detailed financial strategy be developed and presented in the EIS to ensure that during the build-out phase, costs are accounted for and kept within acceptable user rates for the homes that are occupied. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: It is contemplated that the Applicant will setup of a Transportation Corporation to operate the wastewater treatment system for a period of time until a critical mass of homes within the Project have been built - it is proposed that the Transportation Corporation own and operate the wastewater system until the earlier of the expiration of two years or when 50 homes (excluding model homes) in the Project have received permanent Certificates of Occupancy; at which time the system will be dedicated to the Town at no cost. The Transportation Corporation will be formed to only provide services to the residents of

Kensington Woods at no expense to the Town. The Corporation will receive revenue to cover a portion of the cost to operate the system via user fees charged to the residents. The fees charged will be similar to what fees will be charged by the Town once the system is dedicated and the Sewer District is created. A full analysis of the costs of operation and maintenance of the wastewater system will be provided during site plan review and upon application for the formation of the Transportation Corporation.

Comment 1.3.11. As currently proposed in the DEIS, no financial estimate to operate and maintain the [stormwater management] system is presented. Current discussions with Town Staff and Town Board members indicates a strong desire not to assign O&M costs to a new special assessment district for this project. As such, the current indication from Town staff is that the costs would be funded through Highway (DB) appropriations. The Applicant should present anticipated long-term operation and maintenance costs in accordance with the NYSDEC guidance documents. Further, the Applicant's financial analysis should demonstrate the anticipated cost impact to the DB fund. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: The stormwater system within the Project will be operated and maintained entirely by the Homeowners' Association, the costs of which will be paid solely by the homeowners in Kensington Woods. Thus, there will be no cost to the Town and no impact to the DP Fund.

Comment 1.3.12. Can the wastewater system be expanded? What would be the incremental cost of expanding the system and what is the maximum capacity that can be provided from that site? [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 24.]

Response: The WWTP process equipment has been sized based upon the service population. The plant layout has been configured to allow future expansion of the plant as additional capacity is required. Adequate area has been provided for the plant to be expanded to treat the wastewater from Kensington Woods, existing residents,

and potential development within the potential contributing area. The location of the plant is removed from any flood prone areas. The WWTP has been positioned such that it is above the design high water elevation of the local stormwater management system, the plant is approximately 3,000 feet from a 100 year flood zone and the area around the WWTP has been graded to provide positive drainage.

Comment 1.3.13. Can we get some sewer capacity off of this system? What provisions have been made in the piping design such that large enough sewer mains are brought to the edge of the property so that the town will not need to replace or modify any piping on the site in order to expand the wastewater system to its full capacity? [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 24.]

Response: See Response to Comment 1.3.12 above.

Comment 1.3.14. Sewer services should be offered to adjacent homeowners. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 24.]

Response: See Response to Comment 1.3.12 above.

Comment 1.3.15. The wastewater treatment structure looks like a pretty ugly building. Any wastewater treatment structures should be sided with similar materials as the homes and the treatment areas should be planted with mature bushes to screen the fencing around the equipment. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, pages 24-25.]

Response: The wastewater treatment plant is designed to be functionally efficient, allowing ease of maintenance, thereby affording low future maintenance costs. The current design was established in careful consultation with the Town's Consulting engineers, the manufacturer of the Plant and NYSDOH. The building's exterior will use earth tone colored maintenance-free finishes that will be in harmony with the proposed homes. The location of the proposed treatment building is far removed from adjoining

properties, town roadways and from the proposed Kensington Woods home sites.

Comment 1.3.16. They mentioned that there was a peak discharge from the waste water treatment of 272 gallons per minute. That sounds to me like a significant amount of discharge. I think that the average discharge was considerably less. What are the results of the drainage study in relation to determining if the added discharge (peak of 272 gpm) from the treatment plant would cause flooding downstream? What if that's in the middle of a rainstorm? [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 25.]; I represent some folks who own property on both sides of this project. They've asked me to come to discuss the discharge from the proposed treatment plant. I'm aware that they may be able to get a SPDES permit, a discharge permit and an okay from the County Board of Health, however, that unnamed tributary runs right down smack in the middle of property that we own. It will certainly damage the property and diminish what we can do with it. Right now it's agricultural, but in the future it will be developed and that will hamper our development. Furthermore, the unnamed tributary dries up quite often and really can't take a load. Nor are things like household hazardous wastes, medicines, petroleum, chemicals that are dumped in the stream by homeowners considered in the treatment plant plans. I would have to wholeheartedly object to that being used as a source point onto our property. [Phil Donato, December 30, 2008 Public Hearing transcript, pages 35-36.]

Response: The WWTP design incorporates measures for protection of any NYSDEC protected water body. The effluent from the plant will meet all NYSDEC effluent limits. The water quality of the effluent will be improved by the WWTP processes including tertiary filtration and ultraviolet disinfection. The unnamed tributary is located along the eastern portion of the property. This perennial stream enters the property from its southern border and flows to the north through the man-made ponds. This stream then turns to the east and flows off site. Surveyed topography shows the bottom of the stream varies in width from 3-5 feet and ranges from approximately 2 feet deep to 4 feet deep. The substrate is primarily sand/silt. The proposed WWTP will continually discharge treated effluent to the

stream at an average rate of approximately 35 gallons per minute or 0.08 cubic feet per second (cfs). This rate can then be added to the post-development peak stormwater discharge rate and compared to the existing pre-development peak stormwater discharge rate. Table V-C-1 below summarizes the pre-development peak stormwater discharge rate, the post-development peak stormwater discharge rate and the WWTP flows added to the post development peak stormwater discharge rate. The comparison outlined in the DEIS shows that the total post development peak flows (stormwater and WWTP effluent) to the existing stream are less than the existing condition peak flows (during storm events) to the stream channel. The proposed Project does not propose impacts to the existing variations in the seasonal groundwater table. As a result the seasonal fluctuations in the spring high water table and their effect on the existing drainage course are anticipated to remain consistent from pre-development to post development conditions. Overall, the proposed stormwater management system reduces and/or eliminates the impacts of the proposed development by controlling and treating stormwater through the use of stormwater management basins. The stormwater management system and WWTP will function adequately and will not adversely affect adjacent or downstream properties

Comment 1.3.17. Victor Genovesi and his family's primary concern is the discharge of storm water and wastewater from the WWTP into the "unnamed tributary" which transits several large parcels of his family's land. Generations of the Genovesi family have called Font Grove Road their home. The DEIS uses statistics and regional historical rainfall figures to estimate the hypothetical effect. Mr. Genovesi has observed this stream and the role that it plays in the local environment his entire life.

The stream is small, only a few feet across for most of the portion that crosses the Genovesi lands, and in the Spring or after a heavy rainfall, it can be at the top of its banks. The DEIS does not appear to consider the dimensions of the stream outside of the Kensington Woods development area. According to the DEIS, the expected wastewater is estimated as an average daily wastewater flow of 50,700 gpd and a peak hour wastewater flow of 141 gpm. The DEIS also states that the peak hour wastewater flow for the combined Kensington Woods and possible future

contributing areas is 272 gpm, which represents a potential doubling of the development's flow.

Mr. Genovesi is concerned that the portion of the stream that traverses his land will be unable to accommodate this greatly increased flow, leading to flooding of portions of his land, denying him both access to his fields for haying and clearing of grasses and making the fields too wet for work, activities the family has carried on for generations. [Justin C. Brusgul, Esq., dated January 12, 2009, written comment.]

Response: The flows produced by the WWTP are insignificant in comparison to the stream capacity. Additionally, the proposed grading avoids creating channelized flows, therefore, siltation, erosion and downstream flooding are not expected to pose problems once the WWTP is operational. See also Response to Comment 1.3.16 above.

Comment 1.3.18. Effluent limits have been preliminarily determined by discussions between Applicant and NYSDEC/ACDOH. Stantec yields effluent limit discussions to the appropriate regulatory agencies. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: Comment noted, no response required.

Comment 1.3.19. Based on the preliminary plans, no backup power generation is proposed for the wastewater treatment facility. Plant shall be provided with an alternate source of electrical power to allow continuity during power failures. DEIS documents should be modified accordingly. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: To ensure continuous service when the primary power is interrupted, a backup generator will be provided. The details of the size and configuration of the backup generator will be provided during the site plan design phase of the Project.

Comment 1.3.20. Emergency pumping capabilities are proposed to be portable gasoline-powered equipment that are brought to the pump stations and installed in response to power

outages or other failures. The Applicant has calculated the maximum response time of just over two hours before sanitary sewage is released to the environment or into adjacent resident basements. Stantec believes that insufficient time is allocated to appropriately respond to power failures or other failures to the pump stations. Applicant shall present a more suitable method of backup service to the pump stations. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: To ensure continuous service when the primary power is interrupted a backup generator will be provided. The details of the size and configuration of the backup generator will be provided during the site plan design phase of the Project.

Comment 1.3.21. What is the cost of removal of the sludge? Was this included in the financial section? Will this cost be borne solely by those in the sewer district? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The cost of sludge removal is a maintenance item included in the overall budget for the sewer district, which cost will be born solely by users within the district.

Comment 1.3.22. The cost of training for ToNS personnel should be included as part of the cost of installation. Is the cost of an operator included in the financials? Also, the cost of safety clothing and equipment needed to operate the plant. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The cost of training personnel for operation of the WWTP is a cost included in the overall budget for the WWTP and will be borne by the users within the sewer district.

Comment 1.3.23. As proposed there is no alarm system to indicate a loss of power nor does the proposal include a backup power system (see 10 States Standards); this should be included in the cost of installation (electric power or pumping capability). [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The proposed wastewater treatment plant would be equipped with audible and visual alarms to indicate power

failures. To ensure continuous service when the primary power is interrupted a backup generator will be provided. The details of the size and configuration of the backup generator will be provided during the site plan design phase of the Project.

Comment 1.3.24. What is the 24 hour alarm location? Installation should include this as a cost. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The alarm will be a intrinsic component of the WWTP, the exact location of which will be determined during final design. The cost of installation of the alarm will be borne by the Developer as part of construction of the facility and will not be a cost of the sewer district.

Comment 1.3.25. Is the filter system located above or below ground? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The proposed rotating biological contactors are proposed to be recessed partially in the ground and the proposed tertiary filters would be located above ground.

Comment 1.3.26. What is the average cost of maintaining stormwater drains, basins, piping, etc.? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The costs of onsite maintenance of the stormwater facilities will be borne by the Homeowners' Association and will not be a Town expense.

Comment 1.3.27. With regards to the WWTP and the tributary, the DEIS states that the tributary is a perennial stream averaging 2-4 feet in depth. I saw this stream once and it was described at the location I was standing at. Table V-C-1 shows comparisons of peak storm event flows. From this table, it appears that the WWTP would have little effect on the stream's flow. I would like to see how these values were calculated/estimated and if any stream flow gauging has been conducted. The results of the present nutrient levels in the stream would also be of interest. [Thomas J. Brady, Assistant Director on behalf of Marcia M. Lenehan, M.S., Director, Division of Environmental Health Services, County of Albany Department of Health, dated January 13, 2009, written comment.]

Response: The calculations for the values in Table V-C-1 are the pre-development and post-development peak runoff calculations that are outlined in Appendix D of the DEIS. This table shows that the post development stormwater flows from the site with the estimated peak flows from the WWTP are less than the pre-development flows in the tributary. The topography of the tributary that the WWTP is proposed to discharge to was surveyed by a licensed surveyor. The channels capacity at the various locations were determined by the slope of the channel, estimated roughness coefficients of the bed and banks and observed depths. The tributary is currently being tested on a quarterly basis to identify the background quality of the tributary. The results of the quality tests will be supplied to the Town for their records upon the completion of one year of testing.

1.4. Drainage

Comment 1.4.1. Were alternatives to stormwater basins explored for stormwater management such as low impact development (LID) stormwater best management practices (BMPs) which capture and treat stormwater prior to its entry into local surface waterways? Some of the following techniques significantly reduce the maintenance costs for the Town: permeable pavement, permeable pavers, stormwater planters, vegetated swales, stormwater wet ponds, green roofs, green gardens, constructed stormwater wetlands, stormwater tree pits, gravel wetlands. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 25.]

Response: The post Project development condition will be modeled using the same model that was developed for the existing watershed condition, except that the data for the developed site condition will be inserted in the model. Four (4) stormwater management basins will be constructed to control stormwater runoff from the proposed development. These basins are included in the design of the subdivision to control peak stormwater discharge from the property as well as to treat stormwater prior to discharging to the on-site water/wetland courses as well as off-site water courses. The basins were designed to ensure post-development peak

stormwater discharges are less than pre-development peak stormwater discharges. These basins have been designed to include aquatic vegetation benches as well as deeper water vegetation which will effectively remove nutrient loads as well as allow for particle sedimentation prior to discharge to the on-site wetlands and/or watercourses/basins. Overall, the proposed stormwater management system reduces and/or eliminates the impacts of the proposed development by controlling and treating stormwater through the use of drainage ditches and channels, stormsewer piping, and stormwater management basins. The stormwater management system will function adequately and will not adversely effect adjacent or downstream properties when constructed and maintained as outlined in the plan and as shown on the site plans. The plans as proposed have been deemed acceptable by the Town's consulting engineers.

Comment 1.4.2. The NYSDEC Stormwater Management Design Manual (SMDM) identifies approximately 15 different types of basin designs that, if designed and constructed according to the Manual, meet the state and federal guidelines by default. The SMDM identifies design constraints that aid in selecting the appropriate style of basin. The proposed Project will include five (5) stormwater management basins and associated collection systems. It is Stantec's opinion that the styles of the proposed basins are appropriate given site constraints and the basin styles that are endorsed by NYSDEC. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: Comment noted, no response required.

Comment 1.4.3. One is the issues that we do have that is outstanding in the financial section is storm water management and that's an issue that the town is dealing with right now and has not made a determination. Hopefully they're going to talk about it on their December 10th meeting. I understand that it's going to be on their agenda and how storm water is going to be dealt with in the town and if we're going to leave it on the individual communities and new subdivisions to bear the cost or if the town is willing to do it on a town-wide basis. That's something that the town still hasn't made a determination on. They needed to do that before our next public hearing because it's going to

have an impact on your financial aspect if we have to go to a town-wide, because you looked at it in your report as being a totally borne by the development itself and not any other residents of the town. We do have that outstanding issue out there that hopefully the town will come to some resolution on in a short period of time so that we can tell you what's going on there. [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, pages 57-58.]

Response: The Town has indicated that it does not wish to establish special districts for this or other projects to address the costs of operation and maintenance of the Stormwater Management system on site. The Applicant is prepared to include the obligation for stormwater management and maintenance for the facilities on site with the duties to be satisfied by the Homeowners' Association to be established. As the Applicants have done on other sites they have developed, they are prepared to require the HOA to provide such services, including annual reports to the Town of ongoing maintenance activities, and disclosure of the budget for operation and maintenance, including a reserve account for future repair and upgrades. Additional, the Applicant would provide easements for the Town as required to afford inspection of the facilities and compliance with the stormwater management plan.

Comment 1.4.4. On your Appendix J for the resolution positive declaration. What I'm interested in is that question 14 is on page 6 has an answer of yes to it about surface area with existing body water increased or decreased by the proposal and your response is yes, but then you don't go on to explain what it is. [Jo Ann Davies, Planning Board Meeting minutes November 5, 2008].

Response: The proposed Project is not expected to, nor does it intend to increase or decrease an existing water body. As a result, the response to question 14 of the long environmental assessment form should be revised to indicate a response of "no".

Comment 1.4.5. In looking at the proposed cluster layout for the development it appears that C22– C28 could be proposed for an area that has a slope greater than 17% can you verify the slope at this location? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: A new Figure outlining the land that has slopes over 15% and the relationship of those areas to the proposed lots within the development, has been added to Appendix I of the DEIS. (See Appendix K Figure 2)

Comment 1.4.6. Please include a map that indicates where the 8% of land that has a slope greater than 15% is located; also a map showing the proposed units imposed over that slope map. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: Please see Appendix I which provides the requested information.

1.5. Terrestrial and Aquatic Ecology

Comment 1.5.1. Stantec takes no exception to the methodologies, recommendations, conclusions and determinations by permitting authorities as submitted in this document. Stantec defers any additional comments to the NYS Department of Environmental Conservation and US Army Corp of Engineers. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: Comment noted, no response required.

1.6. Archaeological and Historical Resources

Comment 1.6.1. Stantec defers any additional comments to the New York State Office of Parks, Recreation and Historical Preservation. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: Comment noted, no response required.

1.7. Visual Resources

Comment 1.7.1. Regarding the Visual Impact Study, Figure A13d, will any views be similar? [Jo Ann Davies, Board Member,

submitted August 25, 2008, written comment; Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: As reflected in the Visual Impact Study, three (3) existing off-site water towers similar in size and character to the proposed water tank were identified for comparison purposes. Each of the examples were located within single family residential neighborhoods and along public roadways comparable to the proposed Project. As demonstrated by the analysis provided, existing intervening landform and vegetation substantially limits visibility of the proposed water tank from existing off-site residences and local roadways resulting in substantially less visual impact that any of the three sample water tanks evaluated.

Comment 1.7.2. Regarding the Visual Impact Study (p. 18), use of floodlights in front/side yards. [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.]

Response: All outdoor residential lighting will be limited to incandescent fixtures located at the garage overhead doors, and entry doors. A lamppost on an electric eye will be located along each entry driveway. Low voltage landscape lighting may be placed around entry walkways, and rear patio areas.

Comment 1.7.3. Regarding the Visual Impact Study, are there any structural blank walls? [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment; Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: It is believed this comment is inquiring about the use of retaining walls within the Project. There will be no significant retaining walls located in any of the viewshed areas that would impact the viewshed of the community. Architectural design of individual residences would maintain similar form, scale, complimentary color schemes, and texture to present an image of a well-planned and visually unified neighborhood. Emphasis shall be placed on creating an interesting visual impression, particularly from public rights-of-way and adjacent lands. The use of different textures, complementary colors, shadow lines, detailing and contrasting shapes to create an appealing

façade is encouraged. The use of single colors and blank walls will be avoided.

Comment 1.7.4. You can see from the drawing (see [Appendix L/Chart]) that the 150 foot deep lots along the rail trail present a significant privacy problem. The units will be bought by people who will not have imagined with the drawing reveals, that all sorts of strangers will be "in their backyard." The town will receive the bulk of complaints afrom these owners who will expect someone to rectify the matter, and wanting to know how such a bad idea was ever approved. The Sheriff's office will be called when owners feel they are being cased, or luridly observed. We should not be creating such a condition. [Robert Mitchell, submitted January 3, 2009, written comment.] There is no buffer from the residential lots to the rail line. Since the rail line is designated to become a public walking/biking trail, there should be a 50-foot no cut buffer between the trail and the rear lot line of the homes. See the drawing of Bob Mitchell. I think this could be a real concern primarily for the developer because with a setback of only 60 feet, people on that rail trail biking and hiking are going to be looking straight in to the back yards of the homes that are back there and I think that's going to be a privacy issue for those homes. There will be kids biking and they may trespass. I think that you should take a look at this and see what the sightlines are. There is a requirement for a buffer and I think that buffer should be required where the properties are adjacent to the rail trial, as well as to any adjacent property owners. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 27-28.]

Response: The drawing prepared by Bob Mitchell and referred to by the Commenter does not accurately depict the post construction conditions as contemplated by the project site plan. Attached as Appendix K-3a-b, are two typical lot drawing cross sections for Carriage style single family lots C-2 and C-17 Fairfax Drive, which both have the least amount of rear yard setback to the proposed bike trail. In both cases, the homes will not be adversely affected by their proximity to the bike trail. The bike trail is considered an amenity that will benefit the Project and is typical for many planned communities throughout the nation. Additionally, the bike trail has a natural buffer of existing

vegetation situate along most of the common boundary between the proposed home sites and the bike trail corridor.

The homes that will be built along the bike trail will be mostly ranch and 1 ½ story style homes featuring first floor master suites. The proposed Twin Townhomes and Estate single family lots have more than adequate set back from the bike trail corridor. In the case of the proposed Executive and Carriage single family homes located along the bike trail, should a situation arise whereby the existing vegetation is not adequate to provide privacy for the lot owner, the Applicant will add additional landscape plantings to screen the rear house patio areas to provide further privacy and screening to the bike trail corridor. The Applicant will also agree to stipulate in the HOA Offering Plan that there will be a 20 foot "no cut/no disturb" buffer along the common boundary of the lots and the bike trail corridor.

Comment 1.7.5. They're asking for a 25 foot no-cut buffer. We dealt with this at the Colonie County Club. A cluster requires a 50 foot no-cut buffer. [Ms. Abram's written comment states that the law requires a 100 foot no-cut buffer.] Their rationale has nothing to do with topography. It has nothing to do with anything physical that they need. Providing infrastructure and different kinds of housing and preserving environmentally sensitive features are things that a developer would have to do anyway and do not constitute a unique circumstance to justify reducing the mandated buffer. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 19.]

Response: The Project has been designed to afford the greatest possible preservation of the existing natural features of the property as open space for the benefit of the Town's residents within the Project and without. In doing this, some of the proposed lots abut the neighboring property boundary of adjacent parcels. Although the Ordinance contemplates a buffer area between cluster developments and neighboring residential land uses, [Section 190-60 (H)], the Planning Board is authorized to exercise its discretion to grant a waiver/variance from the buffer requirement in unique circumstances. [Section 190-60(I)] This Proposal presents such unique circumstances and as

such, the Applicant seeks a waiver/variance from the Planning Board with respect to the requirements of a buffer as set forth on the attached Cluster Development Plan.

The neighboring land uses to the KWD include a mix of residential, agricultural, former railroad and vacant land uses. Buffers to the neighboring land uses have been provided as appropriate based on the density of proposed land use and the type of the existing adjacent land use. The underlying MDR zoning for the parcel requires a minimum lot size of 22,000 square feet. The proposed land uses in the KWD include a mixture of lot sizes that range in size from 9,000 square feet minimum to 32,000 square feet minimum. A 25 foot no cut buffer is proposed around the proposed residential uses within the KWD that are less than the minimum MDR zone area requirement of 22,000 square feet. Furthermore, the buffer is proposed to be implemented for all existing residential uses and vacant/agricultural land uses that have a potential for future residential land uses. The buffer is proposed behind the Carriage Lots on the west and east side of Hilton Road and behind the Executive Lots on the east side of Hilton Road. Given the current and historical use of the Delaware and Hudson rail corridor the 25 foot buffer is not proposed for the residential uses which abut the rail corridor along the southern boundary of the parcel. Additionally, the 25 foot buffer is not contemplated for the proposed 22,000 square foot minimum Estate Lots that are significantly larger than the size of the MDR zone minimum lot size.

The principle objectives of the layout, design and construction of the cluster subdivision enhances and optimizes the preservation of green space over a conventional layout plan. In accordance with the MDR zone requirements 10% of the parcel is required to be maintained as open space. The proposed cluster plan provides approximately 47.8% green space. This green space is positioned to buffer and maintain existing roadway view sheds, maintain existing vegetative cover, provide buffers to existing natural resources and provide passive and active recreational open space areas.

The request for a waiver is supported by several factors presented by the Applicants including, but not limited to, a unique combination of varied housing types, together with beneficial open space and the provision of all infrastructure

necessary for the Project, including water and sewer, within the perimeter of the Project property and without any burden on the surrounding environment, the Town or its residents. The request for a waiver does not alter the established density and is not inconsistent with the stated purpose of the cluster development provisions of the Zoning Code. Even with the requested waiver the Project continues to promote the most appropriate use of land; it facilitates the adequate and efficient provisions of streets and utilities; it preserves open space and the natural and scenic qualities of open lands including environmental sensitive features of the site; and it is in harmony with the other goals and objectives of the New Scotland Comprehensive Land Use Plan.

Comment 1.7.6. It has come to our attention that the proposed Kensington Woods residential development would construct a number of housing units directly along the Albany County Rail Trail corridor. Given careful planning and construction of both the trail and the housing development, the rail trail promises to be a valuable asset to residents of Kensington Woods, both in terms of providing opportunities for healthy recreation and sustainable transportation options, but also one that will enhance property values.

If our information is correct, the developer has proposed to only establish a 50-foot setback between homes and the trail. This in our view is inadequate for the privacy of homeowners living adjacent to the trail, as well as for the scenic enjoyment of trail users.

Please enforce the Town of New Scotland Zoning Law provision that requires a 100 ft. buffer. We would also like to request that the developer please install both a privacy fence and green/landscaped barrier between the homes and the trail, as well as a dedicated access point for residents to safely access the trail. This will help ensure proper privacy and enjoyment for both residents and trail users alike. [Dan Rain, Co-chair, Friends of the Rail Trail, A Committee of the Mohawk Hudson Land Conservancy, dated January 12, 2009, written comment.]

Response: See Responses to Comments 1.7.4 and 1.7.5 above.

Comment 1.7.7. What are the NYS requirements/guidelines regarding properties that are adjacent to the proposed rail trail? Are

those requirements/guidelines being followed? If not, why? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The Applicant is not aware of any NYS requirements responsive to the comment, but the Applicants has contacted Albany County, which is responsible for the Bike Trail Project. The Applicant is continuing to coordinate its efforts with Albany County for development of the Bike Trail in conjunction with this Project.

Comment 1.7.8. Albany County has recently signed a purchase agreement for the abandoned railroad corridor and secured the services of a consultant to begin engineering and design work on the rail trail. Since we are in the initial phase of this work, the County cannot foresee all pertinent concerns; however, the County strongly supports the provision of a buffer area [New Scotland Zoning Section 190-60 (H)] along the rail corridor despite the non-residential use of this property. [Leslie Lombardo, Senior Planner, ACPB, County of Albany Department of Economic Development Conservation & Planning, dated January 12, 2009, written comment.]

Response: The Applicant has been coordinating and will continue to coordinate with Albany County as discussed above in the development of this Project in conjunction with the County's work on the Bike Trail. As reflected in Response to Comment 1.7.4 and 1.7.5 above, buffers have been provided for residences proposed on lands adjacent to the proposed Bike Trail.

Comment 1.7.9. The height of the proposed water tower on the site plans differs from the height of water tower used in the VIA Analysis. On drawing sheet DT-10, the proposed water tower will support water up to an elevation 110' above the ground surface prior to discharging out the emergency spillway. The emergency spillway is situated lower than the roof of the tank (by perhaps 5 to 10 feet). The amount has the potential to misrepresent (underestimate) the visual impact on the photo simulations. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: The proposed water tank will be located near the top of a small hill at the northwestern portion of the property,

approximately 1,500 feet west of Hilton Road and 2,200 ft south of the intersection of Johnson and Krumkill Roads. The water tank will be a cylindrical shape approximately 30 feet in diameter and 110 feet tall to the high water elevation within the tank. The dome of the tank of the tank is approximately 4 feet above the high water elevation within the tank which equates to an overall tank height of approximately 114' high. The small hill in which the tank will be positioned is proposed to be excavated to provide a level surface for the base of the tank. This excavation is proposed to be approximately 4-6 feet into the ground resulting in a conservative effective tank height of 110' above the existing grade.

Comment 1.7.10. Stantec recommends the VIA should be revised to correctly show the correct total height of the proposed water tank. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: The VIA in the DEIS does reflect the correct depiction of the height of the water tank as described in response to Comment 1.7.9 above.

Comment 1.7.11. In addition to the planned screening for the water treatment and wastewater treatment plants, what is the color of each structure? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The colors have not been finally determined but will likely be traditional earth tones. Final color will be determined during site plan review.

1.8. Community Services, Municipal Revenues & Financial Analysis

Comment 1.8.1. I have a concern regarding the need for local fire department to purchase a new truck if there is no water district formed; with a water district the need is 80 gpm- what is the gpm under proposed system? [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.]

Response: No specific equipment or staffing needs were identified as necessary to meet the increased demands that the KWD is likely to place on the NSFD, only operating costs such as

vehicle maintenance, fuel and supplies should be affected by the addition of new homes in the KWD. As discussed in the analysis in the DEIS, the Project will have a net positive impact on the New Salem Fire District.

Comment 1.8.2. Will there be a Homeowner's Association? What are the association guidelines? [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment.]

Response: A Homeowners' Association will be formed. Some of the amenities proposed to be provided by the HOA and associated guidelines include the following:

- Areas positioned along both sides of Hilton Road have been designed to preserve the rural character of this existing carriage way. The open space areas along the east side of Hilton Road extend approximately 200' to the rear property lines of the Estate Lots that traverse the eastern side of this Road. This open space area includes approximately 6.5 acres of land as permanent open space. The open area will also be preserved on the western side of Hilton Road extending to a depth of approximately 700' from Hilton Road to the side property line of the Carriage Lot Single-Family Structures.

- A proposed eastern open space area around the existing ponds which includes approximately 28.9 acres. The dedication of this area to the HOA provides a private open space and recreational area for the residents of the development to enjoy while eliminating the Town of New Scotland's responsibilities relative to ownership, operation, maintenance and liability.

- Nature trails are also proposed within this HOA open space area in the interior area of the development around the existing ponds. This interior trail system would be constructed of stone dust or bark mulch.

- A secondary access and utility gravel drive is proposed along the eastern side of the Project to facilitate access from the eastern area of the Carriage Home Lots and the Estate Home Lots. The gravel drive would afford convenient access for all residents to the proposed nature trails while connecting all areas of the Project site for the residents. It would further provide an alternative means of access through the site for emergency vehicles.

- The HOA will provide maintenance and insurance coverage for all HOA owned open space areas, including

landscaped areas, walking trails and the secondary access and utility drive. The HOA will also be responsible for ongoing operation and maintenance of the Project stormwater system, including the preparation of all required reports to the Town or other relevant agencies.

- As part of the maintenance obligations of the HOA for the Project, it will, in addition to other things, maintain the landscaped areas of the divided boulevard entry ways and center and cul-de-sac islands, including all street lights, lawn care and irrigation, maintenance of street trees and landscape planting beds.

- In addition, the HOA will provide full grounds maintenance and snow removal for all housing types other than the Executive and the Estate Lots. The HOA will be granted the authority to enforce all covenants and restrictions within the Project and will coordinate all efforts of an Architectural Review Committee which will be established for the benefit of the Project and the residences within it.

Comment 1.8.3. A Homeowner's Association could be beneficial to controlling the concerns of 1) lawn care; 2) water use; 3) stormwater management; 4) managing a 'community pool' that would eliminate individual pools and save water (i.e. Kenholm area of Delmar); 5) maintenance of park areas; etc. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The Applicant has proposed to establish a Homeowners' Association which would be responsible for lawn care, maintenance of common areas and stormwater management. Transportation Corporations may be established for the initial operation of the water and sewer systems to afford a smooth transition to Town Ownership after dedication.

Comment 1.8.4. With respect to enrollment, the School District estimates Kensington Woods will increase enrollment by 126 students (compared to Camoin Associates' estimate of 65 students). The School District's estimate based on several reasons: the nature of the homes as carriage houses as more apt to attract families with growing children than the duplex used for Camoin's estimate, comparison to the enrollment increase caused Douglas Lane Development and the argument that the Camion estimates lead to higher numbers of children in future years based on families

moving in with a high proportion of young children. [Raymond Colucciello, Ed. D., Interim Superintendent of Voorheesville Central School District, dated November 7, 2008, written comment.]

Response: As discussed in the DEIS, the calculation of the number of school children anticipated from the Project was based upon criteria established by the Capital District Regional Planning Commission and further supported by anecdotal evidence from similar existing projects. This methodology has been accepted as appropriate by the Town's Consulting engineers and advisors. As further discussed at the Public Hearing on December 3, 2008, the evidence of school children from Douglas Lane is consistent with the methodology used for the analysis for this Project (transcript at Appendix M).

Comment 1.8.5. VCSD predicts a 126 increase in student enrollment – if the build out were to take place through 2013 what is the predicted number of students per year that could be anticipated? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The Voorheesville Central School District has concurred in the analysis provided by the Applicant so the previously provided estimates are no longer applicable.

Comment 1.8.6. Is there any potential financial impact on school districts, other than Voorheesville, that draw some of their population from the ToNS? – Bethlehem, Guilderland, Berne, Ravena, Greenville. [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: No financial impacts beyond the Voorheesville School District are anticipated for other public school systems from the Project.

Comment 1.8.7. At most 125 homes will be marketed to young professionals, small to moderate sized families and moderate to large sized families. If each home has at least 2 children, we are not looking at the 34/61 figure the developer is presenting. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment.]

Response: See Response to Comment 1.8.4 above, see also DEIS discussion Executive Summary pages 122 -126.

Comment 1.8.8. With respect to facilities impact, the School District finds that if the number of students by their estimate was evenly distributed, 42 additional students would be enrolled at each of the elementary, middle, and high school levels. The middle/high school could accommodate such numbers but the elementary school could not accommodate 42 additional students without major program reductions. The School District has made a commitment to maintain elementary school class sizes, and to do so with 42 additional students would require 3 to 4 additional classrooms. The elementary school also is encouraged annually by the New York State Education Department to implement a full-day kindergarten program and should the elementary school do so, additional rooms would be needed. [Raymond Colucciello, Ed. D., Interim Superintendent of Voorheesville Central School District, dated November 7, 2008, written comment.]; If we did need to put on another classroom – classrooms are not that expensive but on the other hand, it doesn't appear that we would have to do something like that. If you could just bring that additional information into the overall scheme, we'd appreciate it. I know you used a career evaluation but you didn't necessarily put it in the writing portion of it. [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, pages 47-49.]; SCD regulations have changed since [the number of students in the Voorheesville Central School District has decreased]? Classroom sizes, the square footage that you allot to a child – that changed since then. The course offerings that you have to offer have changed since then. Subjects that you have to offer have changed since then. So, just because you have 500 less kids doesn't mean that you have all the space that you had when you had those 500 kids. [Kevin Kroencke, Board Member, December 3, 2008 Public Hearing transcript, page 51.]

Response: See Response to Comment 1.8.4 above. The number of new school aged children is estimated to be between 34 and 61 for all ages levels. No facility improvements were identified as necessary to accommodate this increase in enrollment.

Comment 1.8.9. With respect to the tax impact, the School District estimates that the difference between the cost of educating 126 additional students and the tax revenue received from Kensington Woods would be a deficit in the amount of $418,294, which would require an approximate tax levy increase of 2.9% per household throughout the district. [Raymond Colucciello, Ed. D., Interim Superintendent of Voorheesville Central School District, dated November 7, 2008, written comment.]

Response: See Response to Comment 1.8.4 above. At this rate of enrollment growth, the tax burden would decline for existing property owners.

Comment 1.8.10. What about the fact that the last development which was built in the district had a lot of children- Douglas Lane, 10 houses and 9 kids? [Kevin Kroencke, Board Member, December 3, 2008 Public Hearing transcript, page 44.]

Response: See Response to Comment 1.8.4 above.

Comment 1.8.11. So there's a question on how many kids would be generated and what you're saying is that you've got three different types of housing here and you're going to get a different amount of kids out of various types of housing. I think that's the confusing part that we didn't really see pop out in the report, per se. The carriage home will be only giving so many where the estate homes may be giving more. I don't know what that ratio was, but I think that's the one that we were looking for was that justification on how you got to your 61 number and there is just not a straight ratio there. Maybe I missed it in their report. [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, page 44.]

Response: See Response to Comment 1.8.4 above, see also Table V-H-21 in the DEIS.

Comment 1.8.12. If I remember correctly, you're talking about – I think the number of kids in that town house and carriage houses is .3? . . . Okay, the kids are not school-aged when they move in the house, but they're going to age in the house and they're going to go to the school. So to me, I just think the number is way too low. [Kevin Kroencke, Board Member, December 3, 2008 Public Hearing transcript, page 45.]

Response: See Response to Comment 1.8.4 above.

Comment 1.8.13. Kevin [Kroencke], I want to interject something. I've lived here a lot longer than you. David can attest to that. Each grade level at the school had six sections and we can accommodate them and we're down 500 students. I doubt that this is going to have an impact on our school district one iota. [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 47.]

Response: Comment noted, no response required.

Comment 1.8.14. What comparable communities did you use [to address the expected impact on the number of students in the Voorheesville Central School District]? [Kevin Kroencke, Board Member, December 3, 2008 Public Hearing transcript, page 50.]

Response: See Response to Comment 1.8.4 above.

Comment 1.8.15. The two large developments in the village, Scotch Pines and Salem Hills - the kids have grown and moved away and have not come back and the parents have stayed. The parents are doing the schlep back and forth to Florida and they're not selling their homes up here so it would just be my thought that when you're calculating your numbers, people are staying because the houses are paid for, they like the community, they have friends. There's a network here and there's a huge network that moves in mass to Florida and then they come back in the spring. Those people aren't going anywhere so we're down 500 students. We can handle it. . . I hope you calculated right when you put on all these additions and raised my school taxes, Mr. Kroencke. I hope that you will accommodate some kids. [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, pages 50 & 51.]

Response: Comment noted, no response required.

Comment 1.8.16. The Applicant has indicated that they will be meeting with the school district and they will be also offering up the additional information that they have with comparison of communities and what the actual impact of those various communities is. With that information, I think that we could have a better handle on making a determination in

this aspect of the draft EIS. [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, page 51.]

Response: This meeting was held and the School District has indicated that it concurs with the analysis provided by the Applicant and the Applicant's projections for school age children, concluding that the Project will not have an adverse impact on the School District. (See Comments LA Group January, 2009)

Comment 1.8.17. I have one question on the school issue. It's a very complicated formula as you know, but one of the factors in the formula is the individuals living in the home and as the well fills up it does have some negative impact on your aid. On the other hand as your assessed value goes up, it balances out, I guess. I was just wondering, because you did make a statement in your report that there maybe an impact. Is there anyway that you could clarify that a little bit more? . . . Can we, in your report, can you clarify that statement about the impact and put some numbers in there or clarify that statement a little bit more? . . . I think that you have the numbers and you've got the background to do it; just for clarification. It's an issue that the public and the board are concerned with because we are the public, too. I mean, school taxes are probably the biggest issue that we have out here. [Robert Stapf, Board Chairman, December 3, 2008 Public Hearing transcript, pages 53 & 54-55.]

Response: New State aid would be generated for the School District with the addition of new students. The formula that the state uses to calculate aid to school districts is highly complex and depends in large part on the relative wealth (using property values) of a district. Because the Voorheesville Central School District ranks fourth highest in Albany County on this state index, they currently receive a relatively small amount of aid as their enrollment increases. The School District estimated that this "growth aid" per pupil is $1,594 per year. As shown in Table V-H-24 below, with the high-case of 61 new public school students from the KWD, the School District would receive an estimated $97,234 in new State aid and with the low-case of 34 new students, it would receive $54,196. It is worth noting that as the property values in the Town increase (as they would due to the construction of KWD), it is possible that the level of state aid the School District receives could decrease even further. Nonetheless, based

on this analysis, Camoin Associates estimated that in both the high and low case scenarios of public school students in the KWD, the Project will have a positive impact on the School District's budget. Table V-H-25 below shows an annual net fiscal impact after full build-out of approximately $519,405 in the high case (61 new public school students) and a net impact of $868,644 in the low case (34 new public school students). This positive outcome is unusual for a residential development, but is due to the relatively high estimated sale prices of the KWD homes, which are based on the real estate market in the area, which even in the current times, has been found to be relatively stable. (See DEIS pages 124-126; Times Union, "Decline in home values not as severe here", January 10, 2009, http://www.timesunion.com/AspStories/story.asp?storyID=758525&category=BUSINESS.)

Comment 1.8.18. [Responding to Chairman Stapf's statement that school taxes are probably the biggest issue in New Scotland.] Revenue will be hit for $735,000 with a potential of 1.5 million. [Cynthia Elliott, Board Member, December 3, 2008 Public Hearing transcript, page 55.] It will be $460,000 with the proposed levy that was submitted just recently. [Kevin Kroencke, Board Member, December 3, 2008 Public Hearing transcript, page 55.]

Response: Comment noted. The analysis conducted estimates that in both the high and low case scenarios of public school students in the KWD, the Project will have a positive impact on the School District's budget. See Response to Comment 1.8.17 above.

Comment 1.8.19. (Combined with comment and response to 1.8.18)

Comment 1.8.20. Can you tell me on the estate homes which are the largest ones, what would be the average selling price on that kind of home versus the assessed? [Jo Ann Davies, Board Member, December 3, 2008 Public Hearing transcript, page 55.]

Response: There would be 27 Estate homes with prices ranging from $650,000 to $1,200,000 with an average selling price of $925,000. (See DEIS Table V-H-23).

Comment 1.8.21. How about the [price of] the carriage houses? [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 55.]

Response: There would be 72 Carriage Homes with prices ranging from $375,000 to $445,000 with an average selling price of $410,000. (See DEIS Table V-H-23).

Comment 1.8.22. I know the formulas have changed, but there is one recently in the district that caused our wealth to drop like one-tenth of a point. There was one home recently in the district that caused our wealth ratio to shift. I'm not sure which house it was to be honest with you, but there was one home in the district that caused our wealth ratio to change like by one-tenth of a point. . . Along with the price of the assessed value, there's a hefty tax bill with it. [Kevin Kroencke, Board Member, December 3, 2008 Public Hearing transcript, page 56.]

Response: See Response to Comment 1.8.17 above.

Comment 1.8.23. We had a large discussion about school issues here. We have a way to control that and that is to ask the Applicant to declare this a senior housing district. That way there would be control. This was already going to be marketed to the people that come under that law. I think that it would be a good idea to ask them to declare themselves and be asked to be considered a senior housing development. [Edie Abrams, December 3, 2008 Public Hearing transcript, page 61.] Similar comment [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 38.]

Response: The Applicant welcomes seniors as residents in the Project but has opted not to limit the Project to a particular population. The Applicant is proposing a multiude of housing types. Each housing type will provide a variety of amenities that will appeal to seniors and move-up buyers.

Comment 1.8.24. One of the interesting things that they say about the students is that except for the 2008/2009 year, there has been decreased enrollment, but per student cost has increased. As we know with the federal and state budget, we're going to get even less money than we have in the past. That's why I want to know how many bedrooms

there are because I think that if you have 169 students and you're going to estimate at a high or a low of 41 new students, that must mean a lot of seniors or couples with no kids. Now, they say that there is going to be a positive impact on the schools budget. That's only if we continue to have seniors in these homes. I don't understand the intent on having seniors in certain homes – why a certain percentage or a certain number can't be designated as a floating housing senior district. We have that law. We are not using that law. I don't understand why. [Edie Abrams, December 30, 2008 Public Hearing transcript, pages 19-20.]

Response : See Responses to Comments 1.8.17 and 1.8.23 above.

Comment 1.8.25. Regarding the Fiscal Impact Study Introduction on Page 2: Include a paragraph that provides a thorough explanation of all the assumptions utilized throughout the analysis. Note that fiscal conditions are a dynamic situation and the accuracy of predicting exact numbers is not possible. The analysis occurs in isolation of other circumstances and therefore a set of extensive assumptions is necessary. The following key assumptions need to be identified for this analysis:

- The build out rate of the Project. The analysis utilizes ten years to predict school children;
- Tax rates and why they will decrease;
- Equalization rate;
- The timing and increase the number of children per household;
- Current municipal services will remain the same;
- The potential effect of inflation;
- The timing, number and classification of new town employees;
- The use of budgeted numbers instead of actual;
- Sales tax revenues. [The LA Group, submitted December 23, 2008, written comment.]

Response: Comment noted. The key assumptions are described in the appropriate and corresponding sections of the analysis as follows:
The analysis assumes services will remain the same and uses existing conditions as a baseline; The build out rate of the Project is only relevant to the school district and is described in that section; Effects on the property tax are described in each corresponding section; Costs are

estimated on an average-costing basis; Sales tax revenue changes resulting from the Project will be minimal. Given the net positive impact for each municipality, tax rates will decrease.

Comment 1.8.26. Regarding the Fiscal Impact Study, Page 3, Fund A: General Fund Townwide, first paragraph, last sentence, the concept to hold tax rates constant is not valid and the measure of tax levy that could be carried by the households is not relevant. The developer has no control over whether the tax rate decreases or increases. Many decisions made well outside the realm of the development could potentially influence the rate. Towns have no tax limit that they can impose on the taxable properties. Tax rates decrease as a result of increased assessed value if the balanced budgets presented by the Town are valid and are considered a constant in the future. If this is the assumption, it should be added to the list of assumptions. Address whether the taxes for existing residents go up or down as a result of this project. [The LA Group, submitted December 23, 2008, written comment.]

Response: Comment noted. Using existing property tax rates to project property tax revenues generated by the Project is a simply way to convey the Project's impact and is easily understood by the public. As correctly implied by the commenter, increased assessed valuation with a less-than-equal increase in expenses will result in a lower tax rate for all property tax payers. This is the conclusion reached by the study.

Comment 1.8.27. Regarding the Fiscal Impact Study, Page 3, Fund A: General Fund Townwide, second paragraph, the last sentence is not true. The Town will not generate new property tax revenue because the Town will not obtain a budget surplus as implied. The effect is the tax rate for other residents may go down if other revenues and expenditures remain the same. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.26 above.

Comment 1.8.28. Regarding the Fiscal Impact Study, Page 3, Fund A: General Fund Townwide, this section does not include the effect of the additional mortgage tax the Town will receive as the project is completed. Mortgage taxes are currently

1.25% in Albany County. [The LA Group, submitted December 23, 2008, written comment.]

Response: The mortgage recording tax is a one-time tax and not a recurring revenue. In addition, the mortgage recording tax flows to the County with a minimal effect on the local jurisdictions. Since this is a revenue not included in our calculations, it will serve to increase the positive results projected for the Project.

Comment 1.8.29. Regarding the Fiscal Impact Study, Page 3, Fund A: General Fund Townwide, this section does not include the impact of the additional franchise fees that the Town will receive as the project is completed. The assumption is the rate of other franchise fees will remain at the same. [The LA Group, submitted December 23, 2008, written comment.]

Response: The franchise fee will have only a minimal effect on the local jurisdictions. Since this is a revenue not included in the Applicant's calculations, it will serve to increase the positive results that have been projected.

Comment 1.8.30. Regarding the Fiscal Impact Study, Page 4, Fund A: General Fund Townwide, first paragraph, an assumption statement should be drafted regarding how the development will affect the park and recreation charges related to the costs for the service and its net affect on the current taxpayers. The parks and recreation revenue contains two elements, one for youth programs and the second for fees charged to use some aspects of the park. The impact of the decrease should be addressed. [The LA Group, submitted December 23, 2008, written comment.]

Response: The Applicant's consultant was not projecting a decrease in charges. The table on the page referenced, simply reports the park and recreation charges as reported to the Consultant for 2006 and 2007.

Comment 1.8.31. Regarding the Fiscal Impact Study, Page 4, Fund A: General Fund Townwide, first paragraph, if the garbage and refuse fees are not likely to increase then it should not be in the chart. Therefore, this item should be removed and replaced with this assumption statement. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.30 above.

Comment 1.8.32. Regarding the Fiscal Impact Study, Page 4, Fund A: General Fund Townwide, first paragraph, if the dog licenses are not likely to increase then it should not be in the chart. Why will dog licenses not increase? [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.30 above.

Comment 1.8.33. Regarding the Fiscal Impact Study, Page 4, Fund A: General Fund Townwide, first paragraph, an assumption should be drafted that will support an increase in fines. Police associations and/or local departments may have statistics we can use in this area. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.30 above.

Comment 1.8.34. Regarding the Fiscal Impact Study, Page 4, Fund A: General Fund Townwide, third paragraph, based on my review of the types of costs included in all categories, except for parks and youth programs, there are no costs that would increase unless there is an assumption that personnel levels will increase. If so, then the timing, number, category and cost over time should be disclosed. [The LA Group, submitted December 23, 2008, written comment.]

Response: Comment noted. The analysis used an average costing method, which is more conservative (i.e. estimates higher costs) than that implied by the comment.

Comment 1.8.35. Regarding the Fiscal Impact Study, Page 4, Fund A: General Fund Townwide, third paragraph, the effect of potential cost increases on parks, youth programs should be tied into the build-out of the project and the related youth program revenue. This cost is made up of two components: park maintenance costs and the cost of providing youth programs. The park maintenance cost should not change however the cost for youth programs will increase over time but will be offset by increased fees charged. Therefore, this area will not likely have a significant effect. [The LA Group, submitted December 23, 2008, written comment.]

Response: Comment noted, no response required.

Comment 1.8.36. Regarding the Fiscal Impact Study, Page 4, Fund A: General Fund Townwide, third paragraph, the costs related to the health expenditure should increase over time based on the build out and change in Town population. The Town has an ALS contract with Albany County that is based on the population served by the ALS system. Therefore, an assumption should be drafted that considers the effect on this contract. [The LA Group, submitted December 23, 2008, written comment.]

Response: Comment noted. The analysis used an average costing method, which should account for the increase noted.

Comment 1.8.37. Regarding the Fiscal Impact Study, Page 5: For the General Fund Part Town and Highway Fund Town Outside Village, the same basic issues noted [in previous comments] apply for these funds. It is recommended that the relevant staff be interviewed. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.36 above. The number of lane-miles being added to the Town's total lane miles represents an increase of 2.5%, so an average costing method is appropriate.

Comment 1.8.38. Regarding the Fiscal Impact Study, Page 7, Fund B: General Fund Part Town, second paragraph, it is not appropriate to net the effects of one fund with another since they represent two distinct sets of residents with a significant overlap of the two sets. It is best not to make this part of the analysis. [The LA Group, submitted December 23, 2008, written comment.]

Response: Approximately two-thirds of town residents are "Town Outside of Village" residents and this combined effect would be applicable to them. The Village residents would only be affected by Fund A impacts. In this case, both impacts are positive (Fund A and Fund A&B combined).

Comment 1.8.39. Regarding the Fiscal Impact Study, Page 7, Fund B: General Fund Part Town, third paragraph, it is unlikely that the Town can exclude the residents of the project from the garbage service since the total cost is a fund cost. Therefore, it is best not to include this alternative. [The LA Group, submitted December 23, 2008, written comment.]

Response: Comment noted.

Comment 1.8.40. In rural communities the common municipal standards for provision of services related to fire, police, and ambulance services may only provide guidance on the adequacy of services. The existing conditions of a number of service providers needs to be determined by contacting the providers and obtaining an inventory of personnel and equipment. Once infrastructure is established it can be expressed as the number of police cars, or fire trucks, ambulances/occupied units in the town or service area. This will be followed by an analysis on the impact of additional housing units in the community. [The LA Group, submitted December 23, 2008, written comment.]

Response: The analysis provided assumed that existing service provision by the Town was at a level that Town officials and residents deem sufficient and acceptable. The study uses an average costing method for determining new costs based on the increase in households. Based on discussion with the relevant Town officials, significant new investments are not anticipated.

Comment 1.8.41. Were the additional benefits to be paid volunteer firemen/emergency service personnel included in the cost/benefit analysis? [Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The analysis was conducted in accord with the assumption that the Project would provide benefits and incur additional obligations proportionate to all other residents of the Town, based on the existing tax structure.

Comment 1.8.42. Regarding the Fiscal Impact Study, Page 10, Police Services, first paragraph, the cost of the Sheriff is and will be charged to the residents through the County Tax. Therefore, this statement of "at no cost" should be clarified. [The LA Group, submitted December 23, 2008, written comment.]

Response: The page and paragraph referenced refers to the Town of New Scotland, which is not directly charged for Sheriff services. The Sheriff services are provided by the County, the costs of which are spread across a very large tax base which includes not only the entire County's property tax

base (as noted by the comment), but also over a number of other tax sources such as the County sales tax and other County general fund revenue. Any incremental increase in the County's Sheriff would have a negligible effect on an individual Town taxpayer.

Comment 1.8.43. Regarding the Fiscal Impact Study, Page 10, Police Services, fifth paragraph, last sentence, to suggest that the additional calls will have no direct impact is contrary to the next paragraph and ignores the County Tax. This whole section needs to be consistent and consider the County Tax. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.42 above.

Comment 1.8.44. Regarding the Fiscal Impact Study, Page 11, Police Services, first paragraph, the first sentence is contrary to the last sentence. This paragraph should be reconsidered after items 9 and 10 above is reviewed and revised as needed. [The LA Group, submitted December 23, 2008, written comment.]

Response: Comment noted. This paragraph is referring to the court system and not the police services and can be removed.

Comment 1.8.45. Regarding the Fiscal Impact Study, Pages 12 - 14, New Salem Ambulance District, the types of calls should be considered as to who and what the calls are. Assumptions can then be developed to address the likely demographics of the development, which in turn will affect the likely effect on costs, if any. In addition, the Town cost is apportioned on assessed value therefore, this contract provision should be considered as well. [The LA Group, submitted December 23, 2008, written comment.]

Response: The analysis employed an average costing method for determining how an increase in the number of households will result in an increase in service demands. The Study also relied on the expertise of local officials with respect to whether or not a new investment would be required based on the profile of the Project.

Comment 1.8.46. Regarding the Fiscal Impact Study, Page 14, New Salem Ambulance District, second paragraph, the concept of new revenues is invalid for the same reasons noted in the above

comment. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.26 above.

Comment 1.8.47. Regarding the Fiscal Impact Study, Pages 15 - 16, Special EMT District, the types of calls should be considered as to who and what the calls are and assumptions developed to address the likely demographics of the development, which in turn will affect the likely effect on costs, if any. In addition, the Town cost is apportioned on assessed value therefore, this contract provision should be considered as well. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.45 above.

Comment 1.8.48. Regarding the Fiscal Impact Study, Page 16, Special EMT District, forth paragraph, the concept of new revenues is invalid for the same reasons noted in the comments above. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.26 above.

Comment 1.8.49. Regarding the Fiscal Impact Study, Pages 17- 19, New Salem Fire District, the types of calls should be considered as to who and what the calls are and assumptions can be developed to address the likely demographics of the development, which in turn will affect the likely effect on costs, if any. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.45 above.

Comment 1.8.50. Regarding the Fiscal Impact Study, Page 19, Special EMT District, second and third paragraph, the concept of new revenues is invalid for the same reasons noted in the comments above. [The LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.26 above.

Comment 1.8.51. Regarding the Fiscal Impact Study, Page 21, Voorheesville School District, third paragraph, the concept of new revenues is invalid for the same reasons noted above. [The

LA Group, submitted December 23, 2008, written comment.]

Response: See Response to Comment 1.8.26 above.

Comment 1.8.52. Regarding the Fiscal Impact Study, Pages 23 and 24, Voorheesville School District, the concept of a 10 ten year build out is introduced for the first time, however the estimated financial impact is not on the same basis. The time value of money is not considered and the financial impact should be estimated over time as well. This part of the analysis is inconsistent with all of the previous sections. This area should be revised. [The LA Group, submitted December 23, 2008, written comment.]

Response: The analysis introduced a buildout schedule for this section only to determine if any facility needs would be triggered in any given year over the next 10 years. The analysis showed that no capacity issues exist to accommodate the projected number of school aged children. This review is not necessary for the other services studied, since the analysis relied on average costing and the expertise of local officials.

Comment 1.8.53. The fiscal impact of MS4 regulations should be addressed. [The LA Group, submitted December 23, 2008, written comment.]

Response: The proposed stormwater management system is an independent system that is not proposed to connect to an existing system under the Town MS4 regulations. The proposed stormwater management system in the KWD is also proposed to be owned, operated and maintained by the Project Homeowners' Association. Consequently, there are no fiscal impacts from the KWD to the Town resulting from the MS4 regulations.

Comment 1.8.54. Regarding the Fiscal Impact Study, The representations referred to in the report should be attached to the analysis as an appendix. [The LA Group, submitted December 23, 2008, written comment.]

Response: The requested information has been provided to and reviewed with commenter and included in the Report.

Comment 1.8.55. Regarding the Fiscal Impact Study, Page 68 of 164 - Section H – 3(b) Highway: The estate cost associated with operation and maintenance of the local highway system did not include the cost of labor. Table IV – H-94, "Highway Fund Variable Cost," needs to be updated to include labor. A representative labor cost is $877,400 for wages and benefits for the highway department. The highway fund variable cost total should be $655,000 for general repairs, machinery, sand, salt, and gas. [The LA Group, submitted December 23, 2008, written comment.]

Response: According to interviews conducted by the Applicant's consultant, a 2.5% increase in total road-miles would not necessitate the hiring of new personnel. The variable costs identified are for materials like gravel and asphalt, which would be directly proportional to the number of road-miles.

Comment 1.8.56. Regarding the Fiscal Impact Study, Page 69 of 164- H4-Park: The operational cost associated with parks and youth programs is representative of future operational cost of existing facilities (see Table V-H-32). The Applicant has proposed a dedication of approximated 5.0 acres of park land while 3.0 acres will have minimal improvements. Provide a discussion of Section 4.1400 Open Space of the Subdivision Law that demonstrates compliance with that portion of town law. The project includes cluster subdivision of land which may limit recreational space or individual lots. The Planning Board finds that adequate recreational space is necessary to provide for orderly development of the parcel and to prevent over use in proper use of undeveloped land. Undeveloped land includes the wellhead protection zone and a portion of the buffer zone around the sewage treatment facilities. The buffer zone around the sewage treatment plan may be above to sustain or support a low level of open space recreation provided that adequate odor control is implemented. This justification should include an evaluation of the location of existing parks in relationship to this project and recently approved projects in the Town of New Scotland. [The LA Group, submitted December 23, 2008, written comment.]

Response: An area immediately to the west of Hilton Road, which includes approximately 5.5 acres of land, is proposed for dedication to the Town as permanent open space and as a Town Bike Trail Park.

The park area will include a small stoned parking lot, signage, bench seating, picnic area, bike rack, refuse containment, a pathway that provides direct access to the bike trail corridor and landscape plantings. The area will be mostly left in a natural state of wild flowers, field grasses and trees with a small amount of lawn area that will keep maintenance costs for the Town to a minimum.

Comment 1.8.57. This is no doubt going to strain the infrastructure of the Town of New Scotland. Town staffing, water, waste, maintenance, and the unforeseen problems - this is too much, too quick, too fast, too overwhelming. If you've seen the state of the economy right now, there are millions of billions of dollars in bailouts and I don't want this to be another one of those failures. This project can have catastrophic unforeseen problems for the Town of New Scotland, for the people of New Scotland, for our families and for our future and for our children. I love the Town of New Scotland, passionately and I want to see it stay the same. Yes, some development – too much, too quick, too fast. This is my home. [T.R. Laz, December 30, 2008 Public Hearing transcript, pages 37-38.]

Response: A residential subdivision in one form or another has been proposed by various Applicants at this location for over 20 years. Moreover, the Applicant originally proposed a significantly larger Project, including additional parcels of land and over one hundred additional residential units. In response to the comments of the public during review of the Project, the size and number of units associated with the Project were dramatically reduced and the Project was configured as a Cluster Development, reducing the impacts both by reduced number of units and by increased proportionate green space for the residents and community. With the Cluster proposal, the number of homes proposed is actually less than the number that would be permitted under the existing Medium Density Residential zoning.

Comment 1.8.58. Highway Superintendent Duncan has expressed concern regarding the costs associated with operating and maintaining the park. He has indicated the desire to have a low maintenance multi-use open space. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: An area immediately to the west of Hilton Road which includes approximately 5.5 acres of land is proposed for dedication to the Town as permanent open space and as a Town Bike Trail Park. At such time when the proposed County Bike Trail is complete and the Bike Trail Park is dedicated to the Town, the Applicant will agree to maintain the Bike Trail Park for a maximum period of two years or until such time as 70 homes in the Project are given Certificate of Occupancy - whichever comes first. See also response to Comment 1.8.56.

Comment 1.8.59. Highway Superintendent Duncan has questioned the collection of per-lot park fees, and the development of equitable parklands in-lieu of fees. Applicant should determine the fair marked value of the proposed parkland and the resultant anticipated park fee contribution. [Keith Menia, PE CPESC, Senior Municipal Engineer, Stantec Consulting Services Inc., dated December 23, 2008, written comment.]

Response: In lieu of park fees, the Applicant will be dedicating the 5.5 acres Bike Trail Park to the Town as permanent open space for the benefit of all town residents. The Applicant will make improvements to the Bike Trail Park which will include a small stoned parking lot, signage, bench seating and picnic area, bike rack, refuse containment, a pathway that provides direct access to the bike trail corridor and landscaping consisting of trees and shrubs, wild flower fields and some limited lawn areas in the vicinity of parking and picnic areas.

The statutory provision authorizing park fee assessment in lieu of the creation of parklands is not predicated upon a dollar-for-dollar affect on parklands dedicated versus the fee otherwise imposed. The analysis is rather predicated upon whether potential impacts of the Project on demand for parkland are adequately mitigated by the preservation of parkland and open space proposed to be included in the Project. Upon review of the significant areas of open space and parkland and active recreational areas that would be created by the Project, including the Bike Trail Park any such potential impacts are more than adequately mitigated by the Project.

Nonetheless, the market value of the 5.5 acres of buildable land is a minimum of $250,000 on the basis that this area could easily accommodate another 4 – 5 lots with each lot

valued between $50,000 and $60,000. In addition, the Applicant will be making improvements to the Bike Trail Park (as noted previously) at a value of approximately $85,000. The combined contribution value of the land and improvements for the Bike Trail Park will be approximately $335,000 – which equates to an amount of $1,923/home for the 169 homes proposed for the Project.

The proposed Project includes an additional 41.3 acres of open space on the west side of Hilton Road to also be dedicated to the Town. This area will include the proposed water system tower and well fields. Access will be provided to the well fields and tower for the purpose of system maintenance. No other activities are expected in this area due to the provision by ACDOH that this area is part of the well head protection boundaries.

Comment 1.8.60. According to the financial analysis, the total taxable value of the project is $83,350,000 or an average home value of $494,000. The report states that high prices are supported by the real estate market in the area. I question that. They may have been two years ago when the market was booming, but I do question whether the market can currently or even in the near future support that. Does the developer have any analysis that shows there is sufficient demand for homes of these prices? All the positive tax impacts are based on these high home values. If the developer had to lower the prices by 20% or more or scale back the development and build less expensive homes, what would be the impact on the financial analysis? [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, pages 26-27.]

Response: As indicated at the Public Hearing on December 3, 2008, both the developers involved in the Project have been building homes in the Capital Region for many years and both are currently involved in the development of Projects with similar homes in the area. Based on their own experience, they are committed to proceed with this Project and have the resources to do so. The estimates for values are based on this experience and are supported by data from the real estate industry that confirms that values of homes in the Capital Region have not changed significantly in the recent economic downturn. See Response to Comment 1.8.17 above.

Comment 1.8.61. Page 29 of the DEIS lists the sale prices for the types of homes to be built for the project. What are the potential liabilities for the town in the event if they don't sell the 169 units after 10 years? That new price is going to be significantly less than what they proposed in the planning assumptions. These numbers, I think, were produced in a much more rosy economy for the housing market. Obviously it would affect tax revenue. [Steve Schreiber, submitted January 6, 2009, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 29.]

Response: See Response to Comment 1.8.60 above.

Comment 1.8.62. The infrastructure itself, as I understand this, would be built - the water supply the sewage and stuff – that's built up front prior to significant occupancy in the project. The worst case scenario is that in fact they don't sell the houses, they don't generate the revenue and you have this large infrastructure that's there serving the much lower number of houses. The costs per unit for supporting this infrastructure will increase dramatically. Who is responsible for that and for those costs? Will the KWD residents bear those costs or will they turn to the Town of New Scotland for help? I heard that the developer would be responsible, but do we have any assurances that would be legally binding that would make sure that this, in fact, does not go back on the taxpayer in the event that the housing market really doesn't get better over the next several years? Suppose, in the worst case scenario, the developer goes bankrupt. Who will be responsible for paying off the loan for the infrastructure?

I think it is critical that as a condition of the project moving forward, there be no legal exposure of the Town taxpayers (outside of those in the KWD) for any of the infrastructure costs should the housing market not recover to the level planned by the developers. [Steve Schreiber, submitted January 6, 2009, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, pages 29-30.]

Response: The developers are solely responsible for all costs of construction of the infrastructure for the Project and will offer the facilities to the Town only upon completion, free

of all liens or encumbrances. The Town will have no exposure to liability for the costs of the improvement at any time during construction and prior to dedication.

Comment 1.8.63. The report mentions a study done by the Michaels Group of school aged children for similar projects. The developer should provide that report in the EIS. Does it back up the numbers they are proposing? [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 27.]

Response: That information was discussed at length at the December 3, 2008 Public Hearing (see Transcript of Hearing) and was further confirmed by the Town's Consultant for fiscal review.

Comment 1.8.64. Given the negative impact to the General Fund Outside the Village, the project should contract for their own garbage service. [Liz Kormos, submitted December 30, 2008, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 27.]

Response: The fiscal impact of the Project is reviewed in the aggregate, and in the aggregate, the fiscal impact of the Project is positive for the Town. Consequently, there is no justification for requiring private garbage service, nor is such a requirement legally permissible.

Comment 1.8.65. Do you now that we have single family homes on beautiful properties right now that are just sitting there and can't be sold? One house can't be sold and you're going to build 169? [T.R. Laz, December 30, 2008 Public Hearing transcript, page 37.]

Response: See Response to Comment 1.8.60 above.

Comment 1.8.66. There is no "Clarkstown Fire Department" in this region, as mentioned on page 65 of 164 of the Revised DEIS. This should be the Onesquethaw Volunteer Fire Co., Inc. [Kevin J. Phelan, Hydrogeologist, Alpha Geoscience, dated October 29, 2008, written comment.]

Response: Comment noted, the DEIS is so revised.

Comment 1.8.67. As the federal and state budgets are clarified, and school districts know how much less money they will be getting, the calculations regarding per student cost should be updated. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment.]

Response: The DEIS anticipates the impacts of a Project at the time it is proposed and during its development based on currently available data.

Comment 1.8.68. The LA Group conducted an interview with Raymond Colucciello, Interim Superintendent of Schools, and David Gibson and C. James Coffin of the Board of Education on January 9, 2009. The meeting participants communicated that they have thoroughly reviewed the most recent draft of the Kensington Woods Fiscal Impact Study. They have also met with the developer, David Michaels of the Michaels Group, to learn more about the project including the targeted market for residents for the subdivision.

Representing the Board of Education, the meeting participants do not take issue with of the findings of the document. Enrollment has been steadily declining in the Voorheesville Central School District and there is ample capacity to absorb the school age children that may potentially be generated from Kensington Woods.

The Board of Education is in the process of addressing the efficiency of bus transportation and is requesting the Applicant to consider a student pick up plan that utilizes collector locations. [The LA Group, submitted January, 2009, written comment.]

Response: Comment noted, the Applicant will coordinate with the School District for bus transportation pick up points.

1.9. Community Character

Comment 1.9.1. In June 2007, it was stated by the developer that Kensington Woods would "not have a cookie cutter look" to it. How is this being accomplished? [Jo Ann Davies, Board Member, submitted August 25, 2008, written comment; Jo Ann Davies, Board Member, submitted January 10, 2009, written comment.]

Response: The plan provides varied housing types to address differing lifestyles and residential choices. The Plan exceeds the open space requirements, providing both passive and active recreational areas which concurrently serve as areas designed to integrate the new development into the surrounding area, recognizing the rural character of the area as viewed from adjacent roadways and otherwise. The Cluster Plan is designed to utilize the existing topography and natural features to define the areas of open space to be preserved and is designed to utilize those features to define the manner in which the Project will be blended into the topography, working with existing grades of the land to the fullest extent possible, providing a varied terrain and more attractive, more natural landscape than conventional development would offer. Furthermore, by using divided boulevard designs with landscaped center islands for the internal roadways where possible, the Project results in an aesthetically pleasing environment while simultaneously insuring safe ingress and egress to the Project and enhancing access for emergency vehicles with a more efficient infrastructure.

Comment 1.9.2. How did you come up with the names for the roads? My concern is Claremont Way; not to be confused with the other development Claremont. Would it be a big deal to change that? [Beth Stewart, Board Member, December 3, 2008 Public Hearing transcript, page 60.

Response: The names of the roads are proposed for ease of reference and can be changed based upon any recommendations of the Town.

Comment 1.9.3. The other thing is that I have a question about the 45% open space. Did you take the amount of square feet or however you measure the ponds and the wetlands? How much open space is there in addition to that? In other words, they can't build on the pond and the wetlands anyway. So, does the 45% of open space include those? [Edie Abrams, December 3, 2008 Public Hearing transcript, pages 61-62.]

They say that they have 82.7 acres of open space. The DEIS lists the following acreage: 22.59 slopes, 5.32 storm water management areas, 18.44 parklands and 17.10 wetlands; these numbers total 63.45. The only "park" I saw on the plans was a future park connected with the rail/trail,

which will comprise 5.5 acres. They do mention that they have the 10% open space requirements but I didn't see that anywhere in the description. So, I have no idea where they get that number from. [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, pages 18-19.]

Response: The proposed open space includes all of the land that is not included within the proposed building lots or roadway right-of-ways. The location of the proposed open space areas are shown on the plans included in Appendix I of the DEIS. The open space areas include a mix of both unconstrained and constrained lands. The cluster plan proposes the concentration of proposed units on the unconstrained lands to provide the 82.7 acres of open space preservation. The open space preservation includes the protection of environmentally sensitive areas and buildable areas that would otherwise be developed or potentially impacted by a conventional layout plan.

Comment 1.9.4. The people who are going to buy these homes – they are $300,000 and $400,000 and there are $500,000 to 1.2 million people. I'm just curious whether or not there's a big box store that's going to be around the corner with all the traffic that's going to entail. How attractive is this development going to be to buyers? [Edie Abrams, December 3, 2008 Public Hearing transcript, page 62.]

Response: Comment noted, no response required.

Comment 1.9.5. I commend you, Chairman, for encouraging more of a look at that spot. I want to say that the project is gorgeous. I think that it would be great if more of the community could see this project. It's a benchmark project for our town and I really congratulate you all for all the hard work. [Marsha Carlson, December 3, 2008 Public Hearing transcript, page 64.]

Response: Comment noted, no response required.

Comment 1.9.6. A positive feature of this project is the concept of clustering the residential uses and preserving areas of town and home owners association owned open space for both passive and active recreation and preservation purposes. Development of a Town Bike Trail Park is an important feature and will

likely be an important asset to the Town and the neighborhood as the Helderberg Hudson Bike/Hike trail is developed in the near future. Access to/proximity of the planned Helderberg Hudson rail trail will be a selling point of this development for some potential buyers. [David P. Jukins, Deputy Director, Capital District Transportation Committee, dated January 13, 2009, written comment.]

Response: Comment noted, no response required.

1.10. Miscellaneous

Comment 1.10.1. I would guess that people who live on Hilton Road and people that live on Krumkill and more people that live on 85 – if they knew that this meeting was taking place, you would see more people here asking questions and making comments. I do not think that the public notice was enough. I think the fact that the next meeting is going to be on the 30th is kind of silly because people are going to go away for new years and you can't expect a lot more people to come to these meetings. [Edie Abrams, December 3, 2008 Public Hearing transcript, pages 62-63.]; I want to reiterate Edie's point about the notice about this meeting. [Marsha Carlson, December 3, 2008 Public Hearing transcript, pages 63-64.]

Response: Notice of the Public Hearings for this Project were published in every weekly edition of the Altamont Enterprise from November 15, 2008 through December 30, 2009. Notice was also placed in the Environmental Notice Bulletin, On the Town's Calender and on the Town's website. The Public Hearings were further announced at the November and December Planning Board meetings. Consequently, adequate notice beyond the legal requirements was provided.

Comment 1.10.2. I think that a cluster development is a misnomer because a cluster are houses close together densely and lots of open space. Most of the open space is land that they cannot develop on. So, that's not open space, as far as I'm concerned. What they really have done is taken the amount of land that they develop on and maximized the number of houses. That's not what a cluster means. [Edie Abrams, December 30, 2008 Public Hearing transcript, page 18.]

Response: Under the New Scotland Zoning Ordinance, a Cluster Development is a special kind of zoning authorized under the Zoning Code to allow flexibility in development and to encourage creative project design, all in accordance with the overall provisions of the Code. Specifically, Section 190-58 of the Town Zoning Code sets forth the objectives for a Cluster Development:

(1) Promote the most appropriate use of land;

(2) Facilitate the adequate and economical provision of streets and utilities;

(3) Result in improved living and working environments;

(4) Preserve open space and the natural and scenic qualities of open lands including environmentally sensitive features of development sites;

(5) Preserve significant tracts of forested lands;

(6) Preserve active agricultural lands;

(7) Protect floodplains, wetlands, lakes, ponds, streams, and other natural features;

(8) Promote development in harmony with the goals and objectives of the New Scotland Comprehensive Land Use Plan.

The Project has been designed and addresses these objectives and criteria. The proposal looks at the possibilities of land utilization under the existing zoning, and then applies the Cluster criteria in a manner designed to define more creative, more attractive and more beneficial land utilization than would otherwise be achieved under the applicable zoning scheme.

The plan provides varied housing types to address differing lifestyles and residential choices. The Plan exceeds the open space requirements, providing both passive and active recreational areas which concurrently serve as areas designed to integrate the new development into the surrounding area, recognizing the rural character of the area as viewed from adjacent roadways and otherwise. The Cluster Plan is designed to utilize the existing topography and natural features to define the areas of open space to be

preserved and is designed to utilize those features to define the manner in which the Project will be blended into the topography, working with existing grades of the land to the fullest extent possible, providing a varied terrain and more attractive, more natural landscape than conventional development would offer. Furthermore, by using divided boulevard designs with landscaped center islands for the internal roadways where possible, the Project results in an aesthetically pleasing environment while simultaneously insuring safe ingress and egress to the Project and enhancing access for emergency vehicles with a more efficient infrastructure.

Comment 1.10.3. As far as the units are concerned, the fact that they say that they're marketed to young professionals and retirees doesn't mean a thing to me. I would like to know how many bedrooms there are, how many bathrooms there are, and the cost of the home. That would give me a better idea of the kind of families of people that are going to move into these homes. Also, how many floors there are? Because if these are going to be for seniors, I want to know if these seniors who will probably be aging in place - will they have to climb stairs or not? Will these homes have the amenities that seniors will need? [Edie Abrams, submitted at Planning Board Workshop on January 6, 2009, written comment; presented at December 30, 2008 Public Hearing, December 30, 2008 Public Hearing transcript, page 19.]

Response: The number of bedrooms and bathrooms in the home will vary based on the type of home and the specific requirements of particular buyers. These homes are not designed for a particular age group, but rather for the population at large.

Comment 1.10.4. To you, this is your business. At the end of tonight, you get to go home far away from here. For us, this is our home. Some of us have been born here – not me. Some of us have lived here all of our lives. Some of us work here and most of us are going to die here. For you, this is just a job. And that's a slick presentation. This mammoth development would be the beginning of the end of the Town of New Scotland. Do you now that we have single family homes on beautiful properties right now that are just sitting there and can't be sold. One house can't be sold and you're going to build 169. [T.R. Laz, December 30, 2008 Public Hearing transcript, pages 36-37.]

Response: Comment noted. See Response to Comment 1.8.60 above.

NOTE TO INCLUDE:

[Add appendix referenced in traffic responses to comments.
Add appendix with drawing for view from Bike Trail to residences
Add Appendix for slope analysis]